Llywodraeth Cymru
Welsh Government

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Nurse Staffing Levels (Wales) Act 2016: statutory guidance (version 2)

How to ensure an appropriate number of nurses are available to provide care for patients.

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Contents

Introduction

1. This guidance should be read in conjunction with the provisions inserted into the National Health Service (Wales) Act 2006 ('the 2006 Act') by the Nurse Staffing Levels (Wales) Act 2016 ('the 2016 Act'), the Explanatory Notes to the 2016 Act, and the 2021 regulations extending the legislation's scope to include paediatric inpatient wards.

2. This document provides statutory guidance on sections 25B & 25C of the 2006 Act. It is the statutory guidance Welsh Ministers are required to issue pursuant to section 25D of the 2006 Act.

3. In accordance with section 25D, Local Health Boards (LHBs) and NHS Trusts (Trusts) to which the duties in sections 25B and 25C apply must have regard to this guidance when exercising their duties under those sections.

Section 25B (Duty to calculate and take steps to maintain nurse staffing levels)

4. Section 25B introduces a duty for LHBs and Trusts in Wales (where

applicable) to calculate and take all reasonable steps to maintain nurse staffing levels and inform patients of the level. The nurse staffing level is the number of nurses appropriate to provide care to patients that meets all reasonable requirements in the relevant situation. The number of nurses means the number of registered nurses (this being those with a live registration on sub parts 1 or 2 of the Nursing and Midwifery Council register). In calculating the nurse staffing level, account can also be taken of nursing duties that are undertaken under the supervision of, or delegated to another person by a registered nurse.

5. In accordance with section 25B(3), the duty to calculate nurse staffing levels currently applies to adult acute medical inpatient wards, adult acute surgical inpatient wards. Section 25B(3)(c) gives Welsh Ministers the power to make regulations to extend the duty to calculate nurse staffing levels to other settings. Regulations [have been] made under this section that will extend the duty at section 25B to calculate and take steps to maintain nurse staffing levels to - paediatric inpatient wards.

Designated person

6. Section 25B(1)(a) sets out that where a LHB or Trust in Wales provides nursing services in a clinical setting to which that section applies, it must designate a person or a description of a person, known as the “designated person” to calculate the nurse staffing level for that setting.

7. The designated person must act within the LHB’s (or Trust’s) governance framework authorising that person to undertake this calculation on behalf of the Chief Executive Officer of the LHB (or Trust). In view of the requirement to exercise nursing professional judgement when calculating nurse staffing levels, the designated person should be registered with the Nursing and Midwifery Council and have an understanding of the complexities of setting a nurse staffing level in the clinical environment.

8. The designated person should also be a person of sufficient seniority within the organisation, such as the Executive Director of Nursing for the LHB or Trust.

Reasonable requirements

9. The designated person must calculate the number of nurses appropriate to provide patient-centred care that meets all reasonable requirements in that situation using the triangulated methodology set out in the guidance below.

10. Reasonable requirements means taking into consideration the holistic needs of the patient, including social, psychological, spiritual and physical requirements. The ward sister/charge nurse is responsible for ensuring that these needs are assessed and classified using the descriptors in the relevant Welsh Levels of Care tool, as set out in the relevant operational guidance for that care situation.

Nurse staffing level

11. The calculation undertaken by the designated person must result in the nurse staffing level for the ward area. In practice, the nurse staffing level will be the required establishment and the planned roster. The maintenance of the nurse staffing level should be funded from the LHB's (or Trust's) revenue allocation, taking into account the actual salary points of staff employed on its wards.

Nurse staffing level

Term	Definition
Required establishment	The total number of staff to provide sufficient resource to deploy a planned roster (determined using the triangulated method in section 25C) that will enable nurses to provide care to patients that meets all reasonable requirements in the relevant situation. This includes a resource to cover all staff absences, e.g. absence due to maternity leave and sick leave; and other staff functions that reduce the time available to staff to care for patients. Supernumerary persons such as students and ward sisters/charge nurses/managers should not be included in the planned roster.

12. The calculation should be undertaken: at least every six months; when entering the workforce planning tool data; when there is a change of use/service which is likely to alter the nurse staffing level; or if the designated person deems it necessary, for example following exception reporting by a ward sister/charge nurse. There should be a formal annual presentation by the designated persons to the Board of their respective LHB or Trust of the nurse staffing level of each individual ward to which sections 25B to 25E of the Act pertain. In addition, they should receive a written update of the nurse staffing level of each individual ward (to which sections 25B to 25E of the Act pertain) when there is a change of use/service that has resulted in a changed nurse staffing level, or if the designated person deems it necessary.

Reasonable steps

13. Section 25B(1)(b) requires LHBs and Trusts to take all reasonable steps to maintain the nurse staffing level. Maintaining means having the number of registered nurses the required establishment and its planned roster require. This should be met with permanent staff, however temporary workers can be deployed if required. (See the professional judgement section for guidance on the effect of the use of temporary staff on the calculation.)

14. It is recognised that the clinical environment is complex and therefore the planned roster may, on rare occasions, be appropriately varied to respond to patients' dependency and acuity across the system. The ward sister/charge nurse and senior nurse should continuously assess the situation and keep the designated person formally apprised. The designated person should consider if a recalculation of the nurse staffing level is required (e.g. in the circumstances set out in paragraph 12).

15. LHBs and Trusts should put into place systems that allow them to review and record every occasion when the number of nurses deployed varies from the planned roster.

16. The responsibility for decisions relating to the maintenance of the nurse staffing level rests with the LHB (or Trust) and should be based on evidence provided by - and the professional opinions of - the Executive Directors with the

portfolios of Nursing, Finance, Workforce, and Operations. The LHB (or Trust) should agree the operating framework for these decisions to include actions to be taken, and by whom.

17. Reasonable steps - which should be taken at national and LHB/Trust level to maintain nurse staffing levels - are considered to include:

National steps

- the sharing and benchmarking of corporate data

Strategic corporate steps

- workforce planning for a continued supply of required staff assessed using the Welsh planning system
- active recruitment in a timely manner at local, regional, national, and international level
- programmes of continuous professional development for staff
- retention strategies that include consideration of the NHS Wales staff survey results
- well-being at work strategies that support nurses in delivering their roles

Operational steps

- use of temporary staff from a nursing bank appropriate to the skill mix set out in the planned roster
- use of temporary staff from a nursing agency appropriate to the skill mix set out in the planned roster
- temporary use of staff from other areas within the organisation
- the temporary closure of beds
- consideration of changes to the patient pathway

18. When undertaking these steps, LHBs and Trusts should consider and take due regard of the duty placed upon them in section 25A to have sufficient nurses to allow the nurses time to care sensitively for patients wherever nursing

services are provided or commissioned.

19. These steps and the operating framework should be included in each Board's escalation policy and business continuity plans.

Informing patients

20. Section 25B(1)(c) provides that LHBs and Trusts must make arrangements to inform patients of the nurse staffing level.

21. The LHB's (or Trust's) public Board papers should annually include the nurse staffing level of each individual ward to which sections 25B to 25E of the Act pertain. In addition the LHB (or Trust) should receive a written update from the designated person of the nurse staffing level of each of those wards when there is a change of use/service that has resulted in a changed nurse staffing level, or if the designated person deems it necessary.

22. Patients must be informed of the nurse staffing level on each ward to which sections 25B to 25E of the Act pertain and should also be informed of the date the nurse staffing level was presented to the Board of each LHB (or Trust). This should be easily visible to anyone attending the ward.

23. Patients should have easy access to 'frequently asked questions' on the nurse staffing levels (Wales) Act 2016 and associated regulations. This should include how to raise concerns about nurse staffing levels.

24. The information should be set out in an easily accessible format that patients can understand.

25. Each LHB (or Trust) must comply with any relevant obligations to which they are subject under the Welsh Language Standards for the provision of this information.

Situations where section 25B applies

26. Section 25B(3) stipulates the situations in which the duty to calculate, and to

maintain, nurse staffing levels under section 25B applies. Section 25B currently applies to adult acute medical inpatient wards, adult acute surgical inpatient wards and, with effect from 1 October 2021, paediatric inpatient wards.

27. In all circumstances the definitions of wards set out below will apply according to the primary purpose of the ward.

Adult acute medical inpatient wards

28. 'Adult acute medical inpatient ward' means an area where patients receive active treatment for an acute injury or illness requiring either planned or urgent medical intervention, provided by or under the supervision of a consultant physician. Patients on these wards will be aged 18 and over, however individuals up to their 18th birthdays may receive treatment in an adult acute medical inpatient ward on occasions where professional judgement deems it to be more appropriate based on the clinical needs of the patient while also taking into consideration the existing risk assessment protocols as well as the right of the child/guardian to take part in the decision.

Patients are deemed to be receiving active treatment if they are undergoing interventions prescribed by the consultant, and/or their team, and/or advance practitioners for their acute injury or illness.

Exclusions:

The following care settings are not considered to fall within the definition of “adult acute medical inpatient wards”:

- acute admission/assessment units that have short term admissions for assessment purposes that are demonstrably different to acute medical inpatient wards
- intensive care units
- high dependency units
- coronary care units
- renal dialysis units
- maternity services

- mental health services
- learning disability services
- day care units or wards
- rehabilitation wards

Note: this list is not exhaustive.

Adult acute surgical inpatient wards

29. 'Adult acute surgical inpatient ward' means an area where patients receive active treatment for an acute injury or illness requiring either planned or urgent surgery, provided by or under the supervision of a consultant surgeon. Patients on these wards will be aged 18 and over, however individuals up to their 18th birthdays may receive treatment in an adult acute surgical inpatient ward on occasions where professional judgement deems it to be more appropriate based on the clinical needs of the patient while also taking into consideration the existing risk assessment protocols as well as the right of the child/guardian to take part in the decision. Patients are deemed to be receiving active treatment if they are undergoing interventions prescribed by the consultant, and/or their team, and/or advance practitioners for their acute injury or illness.

Exclusions:

The following care settings are not considered to fall within the definition of 'adult acute surgical inpatient wards':

- acute surgical decision units that have short term admissions for assessment purposes that are demonstrably different to acute surgical inpatient wards
- intensive care
- high dependency units
- maternity services
- day surgery units or wards
- learning disability services
- mental health services

Note: this list is not exhaustive.

Paediatric inpatient wards

30. 'Paediatric inpatient ward' means an area where patients receive active treatment for an injury or illness requiring either planned or urgent medical or surgical intervention, provided by - or under the supervision of - a consultant physician or surgeon. Patients on these wards will be aged 0-17, however individuals up to their 18th birthdays may receive treatment in an adult inpatient ward on occasions where professional judgement deems it to be more appropriate based on the clinical needs of the patient while also taking into consideration the existing risk assessment protocols as well as the right of the child/guardian to take part in the decision. Patients are deemed to be receiving active treatment if they are undergoing intervention(s) for their injury or illness prescribed by the consultant, and/or their team, and/or advanced practitioners.

Exclusions:

The following care settings are not considered to fall within the definition of 'paediatric inpatient wards':

- acute admission/assessment units that have short term admissions for assessment purposes that are demonstrably different to paediatric inpatient wards
- paediatric intensive care units which are separately located
- high dependency units which are separately located
- day case units which are separately located
- neonatal units
- specialised oncology units
- specialised cardiac wards
- specialised renal dialysis units and renal wards
- mental health units
- learning disability units
- paediatric outpatient units
- paediatric emergency departments

Note: this list is not exhaustive.

31. LHBs and Trusts should determine which ward areas meet the definitions for the above wards. This should be included in the formal presentation of the nursing staff level to the Board of each LHB (or Trust) as set out in paragraphs 12 and 21.

Section 25C (Nurse staffing levels: method of calculation).

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32. Section 25C prescribes the method that the designated person must use to calculate the nurse staffing level. This method reflects a triangulated approach.

33. When calculating the nurse staffing level a designated person must:

- exercise professional judgement
- take into account the average ratio of nurses-to-patients appropriate to provide care to patients that meets all reasonable requirements, estimated for a specific period using evidence-based workforce planning tools
- take into account the extent to which the well-being of patients is known to be particularly sensitive to the provision of care by a nurse

34. The triangulation process facilitates validation of data outcomes from the evidence-based workforce planning tool and increases confidence through cross-verification from more than two sources.

35. These three elements are independent considerations which must be triangulated to calculate the nurse staffing level. There is no hierarchy for consideration; it is at the discretion of the designated person to determine the prioritisation in each situation. The rationale for this determination should be recorded.

36. The calculation made by the designated person should be informed by the registered nurses within the ward and the nursing management structure where the nurse staffing level applies. This means that the opinions of the ward sister/ charge nurse, the senior nurse/matron/lead nurse, and the directorate/division nurse director/chief nurse/clinical board nurse, should be provided to the designated person.

37. The mechanism by which these views have been taken into consideration should form part of the operating framework referred to in paragraph 16 and the annual report of the nurse staffing levels to the Board of each LHB (or Trust) referred to in paragraph 12.

Professional judgement

38. Professional judgement exercised by the designated person when making each calculation should include all the following aspects:

i. The qualifications, competencies, skills and experience of the nurses providing care to patients. This includes consideration of the continuing professional development, revalidation, and mandatory training requirements of the nurses employed in the ward, and enabling nursing staff to have the time to receive the appropriate training for the care they are required to provide.

ii. The effect on the nurse staffing level of the use of temporary staff, for example

consideration of the continuity of care for patients and the range of activities that temporary staff are able to undertake.

iii. The conditions in which care by a nurse is provided including considerations of the patients' cultural needs. For example, taking into account religious and cultural practices which could impact on nurse staffing requirements.

iv. The conditions in which care by a nurse is provided including multi-professional team dynamics. For example, where treatment is provided by multi-professionals in addition to inpatient care.

v. The potential impact on care by a nurse of the physical condition and layout of the ward or other situation in which the care is provided. For example, the effect of multiple single rooms.

vi. The turnover of patients receiving the care and the overall bed occupancy. This includes other activities in the ward such as outpatient clinics/treatments and the use of flexible beds.

vii. Services or care provided to patients by other health professionals or other staff (for example, health care support workers), and their qualifications, competencies, skills and experience; in relation to the care that needs to be given, and the requirement for registered nurses to support, delegate and supervise. For example, the service of food and drinks, and the one-to-one supervision of patients.

viii. Any requirements set by a regulator to support students and learners.

ix. The extent to which the nurses providing care are required to undertake administrative functions.

x. The complexity of the patients' needs in addition to their medical or surgical nursing needs. For example, patients with learning disabilities.

xi. A patient's linguistic needs and delivering the active offer of providing a service in Welsh without someone having to ask for it, as set out in the More Than Just Words strategic framework.

39. The professional judgement of the designated person should be informed by consideration of any relevant expert professional nurse staffing guidance, principles, research and current best practice standards.

40. Following consideration of these factors, an uplift of 26.9% should be levied once - before triangulation with the other elements - to cover staff absence from the ward (26.9% was agreed in 2011 as the evidence-based uplift factor for use in Wales by Nurse Directors). LHBs and Trusts will be informed of any change to this uplift by the office of the Chief Nursing Officer ('CNO') for Wales.

Evidenced-based workforce planning tool

41. An evidence-based workforce planning tool must be used in the ward area. This is a tool that is either:

- an established theoretical tool that has been validated for use by establishing an evidence base of its applicability in Welsh clinical settings

or

- a tool developed for use in NHS Wales that has been validated for use by establishing an evidence base of its applicability in Welsh clinical settings.

42. LHBs and Trusts will be informed of the tools that fulfil the definition set out in paragraph 41 by the office of the CNO. The CNO will determine that the tools utilise the best available evidence including ratios for total registered nursing time against patient need in its calculations.

43. Operational guidance on the use of the tools is issued by the CNO and NHS Executive Nurse Directors in Wales and updated as required. This operational guidance should be followed.

Indicators of patient well-being which are particularly sensitive to care provided by a nurse.

44. The designated person must consider circumstances where patient well-

being is particularly sensitive to care provided by a nurse as part of the triangulated method each time the nurse staffing level is calculated. On all wards to which sections 25B - 25E of the Act pertain, this consideration should include analysis of the data for the relevant care situation on the following quality indicators:

a. Pressure ulcers - the designated person should consider any pressure ulcers a patient has developed and/or shown deterioration whilst receiving inpatient care.

b. Medication administration errors - the designated person should consider any error in the preparation, administration or omission of medication by nursing staff.

On adult acute medical and surgical inpatient wards, this consideration should also include:

c. patient falls - the designated person should consider any fall that a patient has experienced

On paediatric inpatient wards, this consideration should also include:

d. Infiltration/extravasion injuries – the designated person should consider any injury experienced by a patient during an intravenous infiltration

In each case, consideration of the data relating to (a)-(d) above should include a review of whether the nurse staffing level was maintained at the relevant time, and if not, whether the failure to maintain the nurse staffing level contributed to the fall, ulcer, or error and to any harm suffered by the patient.

45. In addition to the indicators set out above, the designated person may consider any other indicator that is sensitive to the nurse staffing level they deem appropriate for the ward where the nurse staffing level is being calculated. Examples of other relevant indicators could be:

- patient experience
- unmet care needs
- failure to respond to patient deterioration

- staff experience
- staff well-being
- staff ability to take annual leave entitlement
- staff compliance with mandatory training and performance development reviews

Varying nurse staffing levels

46. Section 25C(2) allows a designated person to calculate different nurse staffing levels in relation to different periods of time and depending on the conditions in which care is provided by a nurse. This should be present in the planned roster that is presented to the Board of each LHB (or Trust).

Review

47. This guidance will be kept under review and updated as necessary following consultation with LHBs, Trusts, and others likely to be affected by any changes to the guidance.

About this document

This document is a copy of the web page **Nurse Staffing Levels (Wales) Act 2016: statutory guidance (version 2)** downloaded.

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