

Nurse Staffing Levels (Wales) Act 2016

Statutory guidance

Introduction

1. This document provides statutory guidance on sections 25B & 25C of the Nurse Staffing Levels (Wales) Act 2016 (the Act). It is the statutory guidance Welsh Ministers are required to issue pursuant to section 25D of the Act.
2. In accordance with section 25D, Local Health Boards and NHS Trusts to which the duties in sections 25B and 25C apply, must have regard to this guidance when exercising their duties under those sections.
3. This guidance should be read in conjunction with the Act and its Explanatory Notes.

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

4. Section 25B introduces a duty for Local Health Boards and NHS 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 a setting.
5. In accordance with section 25B(3) of the Act, the duty to calculate nurse staffing levels currently applies to adult acute medical inpatient wards and adult acute surgical inpatient wards. However, the Act does give the Welsh Ministers the power to make regulations to extend the duty to calculate nurse staffing levels to other settings.

Designated Person

6. Section 25B(1)(a) provides that where a Local Health Board or NHS Trust in Wales provides nursing services in a clinical setting to which this section applies, it must designate a person or a description of person, known as the “designated person”.
7. The designated person must act within the Board’s governance framework that details the authority to undertake this calculation on behalf of the Chief Executive Officer and the Board. 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. The designated person should also be a person of sufficient seniority within the organisation, such as the Executive Director of Nursing for the Board.

Reasonable Requirements

8. 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. The number of nurses means the number of registered nurses and the number of persons providing care under the supervision of, or discharging duties delegated to the person by, a registered nurse.
9. Reasonable requirements are the patients' nursing needs as assessed by the ward nursing team.

Nurse Staffing Level

10. The calculation undertaken by the designated person must result in the required establishment and the planned roster for the ward area. This is called the "nurse staffing level". This level must be funded from the Local Health Board's revenue allocation, taking into account the actual staff employed on wards.

Title	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 meet the expected workload to provide care to patients that meets all reasonable requirements for a defined area. This includes a resource to cover all staff absences and other functions that reduce their time to care for patients.

11. The calculation should be undertaken every six months when the tool data is entered, when there is a change of use/service or if the designated person deems it necessary. There should be a formal presentation of the nursing staff level of each individual adult acute medical and surgical ward to the board annually, when there is a change of use/service or if the designated person deems it necessary

Reasonable steps

12. Section 25B(1)(b) requires Local Health Boards and NHS Trusts in Wales to take all reasonable steps to maintain the nurse staffing level. Maintaining means having the number of registered nurses and healthcare support workers the required establishment and its planned roster require. This should be met with employed staff but temporary workers can be engaged if required. (See the professional judgement section for guidance on the effect of the use of temporary staff on the calculation).
13. The responsibility for decisions relating to the maintenance of the nurse staffing level rests with the Board 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 Board should agree the operating framework for these decisions.

14. Reasonable steps for each Local Health Board and NHS Trust are considered to include:

Strategic corporate steps

- Workforce planning for long term staff supply
- Active recruitment in a timely manner at local, regional, national, and international level
- 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
- Use of temporary staff from a nursing agency
- The closure of beds

15. These steps and the operating framework must be included in the Board's escalation policy and business continuity plans.

Informing Patients

16. Section 25B(1)(c) provides that Local Health Boards and NHS Trusts in Wales must make arrangements to inform patients of the nurse staffing level. Arrangements should be made to make such information available to patients both on the ward where the level applies and through its public board papers.

17. This information should be provided in an easily accessible format that patients can understand.

18. The Board must consider any requirements under the Welsh Language Standards for the provision of this information.

Situations Where Section 25B Applies

19. Section 25B(3) stipulates the situations in which section 25B applies. Section 25B currently applies to adult acute medical inpatient wards and adult acute surgical inpatient wards.

20. Adult acute medical inpatient ward - means an area where a patient aged 18 or over receives active treatment for an acute injury or illness requiring medical intervention either planned or urgently, provided by or under the supervision of a consultant physician.

Exclusions: Acute admission/assessment units are distinctly different to acute medical inpatient wards. Also excluded from this definition is intensive care, high dependency, maternity, mental health, day care units or wards, and non acute wards.

21. Adult acute surgical inpatient ward – means an area where a patient aged 18 or over receives active treatment for an acute injury or illness requiring surgery either planned or urgently, provided by or under the supervision of a consultant surgeon.

Exclusions: Acute surgical decision units are distinctly different to acute surgical inpatient wards. Also excluded from this definition is intensive care, high dependency, maternity, mental health, day care units or wards, and non acute wards.

22. The Boards of Local Health Boards and NHS Trusts should agree which ward areas meet these definitions. This should be included in the formal presentation of the nursing staff level to the Board as set out in paragraph 11.

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

Introduction

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

24. 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 workforce planning tools; and
- take into account the extent to which patients' well-being is known to be particularly sensitive to the provision of care by a nurse.

25. 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.

26. 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.

Professional Judgement

27. Professional judgement exercised by the designated person when making each calculation can include all or any of the following aspects:

- The qualifications, competencies, skills and experience of the nurses providing care to patients. This includes consideration of the effect on the nurse staffing level of the use of temporary staff and enabling nursing staff

to have time to receive the appropriate training for the care they are required to provide.

- The conditions in which care by a nurse is provided including considerations of culture and multi professional team dynamics. For example supporting patients and families whose first language is not English or Welsh, or where multi professional treatment is provided in addition to in-patient care.
 - 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 affect of multiple single rooms.
 - The turnover of patients receiving the care and the overall bed occupancy. This includes other activities in the ward such as out patient clinics/treatments and the use of flexible beds.
 - 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.
 - The extent to which the nurses providing care are required to undertake administrative functions.
28. The professional judgement of the designated person should be informed by consideration of any relevant expert professional nurse staffing guidance, principles or research.
29. Following consideration of these factors, an uplift of 26.9% should be levied 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)

Evidenced-based Workforce Planning Tool

30. 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.
31. Operational guidance on the use of a tool is issued by NHS Wales and updated as required. This includes the months when the tool data fields must be completed. This operational guidance must be followed and the results of the tool considered by the designated person as part of the triangulated method each time the nurse staffing level is calculated.

Patient well-being is particularly sensitive to care provided by a nurse

32. 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. This consideration requires analysis of the data for the area on:
33. Patient falls: The designated person should consider any fall that a patient has experienced. This consideration must review whether the nurse staffing level was complied with, and if not, whether the nurse staffing level contributed to the harm suffered by the patient.
34. Pressure ulcers: The designated person should consider any pressure ulcers a patient has developed. This consideration must review whether the nurse staffing level was complied with, and if not, whether the nurse staffing level contributed to the harm suffered by the patient.
35. Medication administration errors: The designated person should consider any error in the preparation, administration or omission of medication by nursing staff. This consideration must review whether the nurse staffing level was complied with, and if not, whether the nurse staffing level contributed to the harm suffered by the patient.
36. In addition to these three 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.

Varying Nurse Staffing levels

37. 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 of the required establishment.