

NURSE STAFFING LEVELS (WALES) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 1 – Nurse Staffing Levels

Section 25A Duty to have regard to providing sufficient nurses

14. Section 25A introduces a new duty on Local Health Boards and NHS Trusts in Wales that provide nursing services.
15. Subsection (1) of section 25A provides that the duty in subsection (2) applies where a Local Health Board is considering the extent of provision of nursing services for its area necessary to meet all reasonable requirements.
16. Subsection (2) of section 25A places an overarching duty on a Local Health Board to have regard to the importance of providing sufficient nurses to allow nurses time to care for patients sensitively. This applies when it is providing the nursing services itself. When securing the provision of nursing services from a third party, a Local Health Board must have regard to the importance of ensuring that the provider has sufficient nurses to allow the nurses time to care for patients sensitively.
17. Subsection (3) of section 25A provides that where an NHS Trust in Wales provides nursing services, it must provide those services to such extent as it considers necessary to meet all reasonable requirements.
18. Subsection (4) of section 25A applies when an NHS Trust in Wales is considering the extent of provision of nursing services. In accordance with subsection (4) an NHS Trust in Wales has an overarching duty to have regard to the importance of providing sufficient nurses to allow nurses time to care for patients sensitively. This applies when it is providing the nursing services itself. When an NHS Trust in Wales is securing the provision of nursing services from a third party, it must have regard to the importance of ensuring that the provider has sufficient nurses to allow the nurses time to care for patients sensitively.
19. This overarching duty placed upon Local Health Boards and NHS Trusts in Wales - to have regard to the importance of providing sufficient nurses to allow nurses time to care for patients sensitively - applies whenever a Local Health Board or NHS Trust in Wales provides nursing services itself and when it commissions or funds care from any third party provider, in Wales or elsewhere. It therefore, applies, for example, when Local Health Boards and NHS Trusts are considering the provision of care within hospitals which they own and manage; when they are commissioning and/or directly providing continuing care; and when they commission nursing services for their residents from a provider in England.
20. In practice, it is envisaged that when Local Health Boards or NHS Trusts in Wales are securing the provision of services (i.e. commissioning services) they will, during the contracting process, consider the patient outcomes which may be affected by the nurse staffing levels on the wards on which the relevant patients will be receiving care. This

*These notes refer to the Nurse Staffing Levels (Wales) Act
2016 (c.5) which received Royal Assent on 21 March 2016*

is one way in which Local Health Boards and NHS Trusts might demonstrate that they have had regard to the importance of ensuring that third party providers from whom they are securing the provision of services have a sufficient number of nurses to allow the nurses time to care for patients sensitively.

21. Subsection (5) of section 25A provides that a Local Health Board or NHS Trust in Wales must (among other things) undertake workforce planning when having regard to the importance of providing sufficient nurses to allow nurses time to care for patients sensitively. Workforce planning includes planning the recruitment, retention, education and training of registered nurses.
22. It is considered that workforce planning is of fundamental importance to the success of the underlying policy objectives of the Act. Workforce planning is a process to ensure the right number of people with the right skills are employed in the right place at the right time in order to deliver an organisation's short- and long-term objectives. It constitutes a range of activities which may include succession planning; labour demand and supply forecasting; recruitment and retention planning; skills audit gap analysis; job design and risk management. See also subsection 25D(3).