

# P-06-1276 Extend section 25B of the Nurse Staffing Levels Act (Wales) 2016

Y Pwyllgor Deisebau | 13 Mehefin 2022  
Petitions Committee | 13 June 2022

Reference: SR22/2716

Petition Number: P-06-1276

Petition title: Extend section 25B of the Nurse Staffing Levels Act (Wales) 2016

## Text of petition:

Nurses across Wales are short of 1,719 highly-skilled, life-saving staff members. This means nursing staff give NHS Wales 34,284 extra hours every single week – and it still isn't enough. Research shows that where there are fewer nurses, patients are 26% more likely to die overall rising to 29% following complicated hospital stays. The Welsh Government should extend Section 25B of the Nurse Staffing Levels (Wales) Act 2016 to give the Welsh public the full team of nurses they desperately need.

Section 25B of the Nurse Staffing Levels (Wales) Act 2016 requires health boards and NHS trusts in Wales to take all reasonable steps to maintain a specified nurse staffing level. The nurse staffing level is the number and skill mix of nurses required to provide sensitive patient care. In addition, health boards and trusts are required to inform the public of the levels of nursing staff on any ward covered by Section 25B.

When the law was first passed, Section 25B only applied to acute adult medical and surgical wards. On 1 October 2021, it was extended to children's wards. We want it to apply in all settings where nursing care is provided, starting with community nursing and mental health inpatient wards.



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# 1. Background

In 2016, Wales passed the [Nurse Staffing Levels \(Wales\) Act](#). The Act initially required health boards in Wales to calculate and maintain appropriate nurse staffing levels in adult acute hospital wards. Throughout the development and passage of the legislation, there was a clear intention to extend this to other healthcare settings in the future.

The Act inserted a number of new sections into the [NHS \(Wales\) Act 2006](#) (the key duties are often referred to by these section numbers):

- 25A An overarching duty on local health boards and NHS trusts to have regard to the importance of providing sufficient nurses in all settings. This also applies where health boards are commissioning services from a third party. This duty came into force in April 2017.
- 25B A duty to calculate and maintain nurse staffing levels in specified settings (the ‘nurse staffing level’ is defined as “the number of nurses appropriate to provide care to patients that meets all reasonable requirements in that situation”). For adult acute medical and surgical wards, this came into force in April 2018. From October 2021, it has also applied to paediatric inpatient wards. This section also makes provision for extending the duty to further settings.
- 25C Sets out the method of calculation for nurse staffing levels.
- 25D Requires the Welsh Government to issue statutory guidance to health boards/trusts about their duties under 25B and 25C.
- 25E Health boards (and trusts where applicable) are required to report to Welsh Government on their compliance with section 25B after a three year period. The Welsh Government must subsequently publish a summary report. The first of these summary reports, for the period April 2018-April 2021, was [published](#) in December 2021.

The petition is particularly concerned with section 25B - the duty to calculate and maintain nurse staffing levels in specified settings. Section 25C is important here, as this sets out the required approach to calculating the nurse staffing level.

One of the key elements of the ‘triangulated’ approach described in 25C is the use of an evidence-based workforce planning tool to generate an estimated appropriate ratio of nurses to patients. The other elements are use of professional judgment, and nurse-sensitive indicators (such as falls resulting in harm, pressure sores, and medication administration errors).

## Extending the Act

At the start of the Fifth Senedd, the Welsh Government made a **commitment** to “more nurses in more settings, through an extended nurse staffing levels law”.

The **All Wales Nurse Staffing Programme** has five workstreams:

- **adult acute medical and surgical inpatient** - the duty to calculate/maintain nurse staffing levels has applied to adult acute wards since April 2018;
- **paediatric inpatient** - the duty to calculate/maintain nurse staffing levels applied to paediatric wards from October 2021;
- **mental health inpatient** - work ongoing;
- **health visiting** - work ongoing; and
- **district nursing** - work ongoing.

The Fifth Senedd Health Committee’s 2019 **inquiry into community nursing** called on the Welsh Government to publish a strategy for extending the Act to all settings. The Welsh Government **rejected this**, saying:

There are significant and numerous fundamental differences to the various settings in which nurses provide care in Wales. (...). It is far too early to begin to understand the level of complexity around that variability across all settings, a substantial piece of mapping work will need to be undertaken by the All Wales Nurse Staffing Programme before a national strategy could be contemplated. The Programme Manager has begun the early stages of that work.

In May 2022, **RCN Wales published** its own report on implementation of the legislation. This found that:

- The Nurse Staffing Levels (Wales) Act 2016 has improved patient care and increased the number of nursing staff on wards covered by Section 25B.
- Patient acuity has increased, meaning Wales needs more registered nurses and health care support workers to care for patients.
- All health boards were prepared for the extension of Section 25B of the Nurse Staffing Levels Act to paediatric inpatient wards on 1 October 2021.
- The biggest challenge is that there are far more nurses leaving the NHS than can be matched by newly qualified nurses or internationally recruited nurses.

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## Capacity of the nursing workforce

During scrutiny of the Bill, the lack of existing workforce capacity was overwhelmingly cited as the most significant barrier to the legislation's implementation.

In 2017, the then Health Minister wrote "It is well known that the Act is being implemented at a time of global shortage in nurse staff". He explained that the *Nurse Staffing Levels (Wales) Act* was designed with a long lead-in time to enable Health Boards to prepare for the workforce planning implications, and highlighted work being done to address nurse recruitment challenges, and how the Welsh Government was investing in nurse education and training.

In September 2020, the then Health Minister noted that the COVID-19 pandemic has placed significant additional pressures on the nursing workforce, and has also had an impact on the programme of work to extend the Nurse Staffing Levels Act.

The Nursing and Midwifery Council (NMC's) most recent annual data report (published in May 2022) shows there's been an increase in numbers of nurses, midwives and nursing associates joining the NMC register, but that there's also been an increase in people leaving. The main reasons given for leaving included too much pressure, poor workplace culture, and the COVID-19 pandemic

## 2. Welsh Government response

In the Welsh Government's letter to the Petitions Committee, the Minister for Health and Social Services describes the premise of the petition title as "flawed" and "lacking in important legislative context".

the Act clearly states that an evidence-based workforce planning tool is a necessary component for applying section 25B to any particular care situation.

The statutory guidance further defines such a tool as one having been tested in Welsh clinical settings to develop an evidence-base as to its applicability. Being grounded in evidence is what has given the Act its credibility and reinforces the nurse's voice from ward to board. Any call to apply section 25B of the Act across all clinical settings neglects that fundamental tenet of the legislation.

She says that developing the required workforce planning tool for paediatric wards was a matter of building on the work already undertaken for adult wards “given the relative analogous nature” of these settings.

However, other settings – for example mental health inpatients or community nursing – are significantly different, with their own particular multi-professional complexities (not least the multi-disciplinary nature of care in those settings) to work through in developing their own evidence-based workforce planning tools.

The Minister also highlights a global shortage of nursing staff. She says that there are significant nursing vacancies in health boards and care settings across Wales, and that extending section 25B of the *Nurse Staffing Levels (Wales) Act* would not directly address this issue.

Every effort is made to ensure that the information contained in this briefing is correct at the time of publication. Readers should be aware that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.