

Briefing for the Petitions Committee

Petition number: [P-05-795](#)

Petition title: **Causing Nuisance or Disturbance on NHS Premises**

Text of petition: S119 of the Criminal Justice and Immigration Act 2008 created powers to deal with persons who cause nuisance or disturbance on NHS premises. This was never enacted in Wales, and there are no provisions to deal with persons who create problems for the NHS in this manner.

There are numerous individuals who cause issues whilst on NHS premises, and the police receive many calls to deal with such behaviour, but there is no way of dealing with the issue effectively as there is no specific offence which the police can use to deter people who, without reasonable excuse, either cause a disturbance or nuisance, refuse to leave the premises when asked, or is not on the premises for the purpose of obtaining medical advice, treatment or care.

Background – Tackling nuisance and disturbance behaviour

The *Criminal Justice and Immigration Act 2008 (CJIA)* introduced new provisions to give the police and staff working in the NHS the power to remove and to prosecute individuals causing a nuisance or disturbance on NHS premises.

[Sections 119](#) and [120](#) of the Act contain provisions for NHS staff to deal with nuisance or disturbance behaviour. Section 119 created a new offence of causing a nuisance or disturbance on NHS premises. Section 120 provides a power for police officers or authorised NHS staff to remove a person suspected of committing this offence. The Act only applies to NHS hospitals in England.

Overview of the offence and power of removal

Section 119 is an offence of causing a nuisance or disturbance on NHS premises. A person commits an offence if they satisfy **all** of the following:

a) the person causes, without reasonable excuse and while on NHS premises, a nuisance or disturbance to an NHS staff member who is working there or is otherwise there in connection with their work, and

- b) the person refuses, without reasonable excuse, to leave the NHS premises when asked to do so by a police constable or an NHS staff member, and
- c) the person is not on the NHS premises for the purpose of obtaining medical advice, treatment or care for himself or herself.

Section 120 gives police constables, authorised officers (and appropriate NHS staff members authorised by an authorised officer) the power to remove a person reasonably suspected of committing an offence under Section 119. A person may be removed using reasonable force if necessary. An authorised officer cannot remove a person (or authorise another person to do so) if they believe a person requires medical advice, treatment or care, or that removal would endanger their physical or mental health.

The key staff figures involved in implementing the provisions are **Authorised Officers** (AOs), whose role is to assess an incident and to authorise removal of persons suspected of committing the offence, and **Appropriate NHS Staff** (ASs), whose role is to remove an offender when authorised to do so.

NHS England published guidance in March 2012 on how to implement the CJIA provisions ['Guidance on provisions to deal with nuisance or disturbance behaviour on NHS premises in England'](#).

Welsh Government Response

Section 119 of the CJIA created a new public order offence of causing "a nuisance or disturbance" to a member of NHS staff. It is non-imprisonable and carries a maximum fine of 1,000. This section came into force in England on 30 November 2009. The Welsh Government would need to issue a Commencement Order to enact section 119 to bring the part of the Act into force in Wales.

In his response to this Petition received on 11 December 2017, the Cabinet Secretary for Health and Social Services states that he is "currently considering if it is now appropriate to enact Section 119 in Wales by issuing a Commencement Order.

National Assembly for Wales debates

The National Assembly's Audit Committee published its report ['Protecting NHS staff from violence and aggression'](#) in July 2009.

Additional Information

Health Boards in Wales have a duty of care to staff to protect them from harm in the workplace. The NHS has a legal obligation to identify the risk of violence and aggression and develop appropriate prevention strategies.

Figures obtained by the Royal College of Nursing via a Freedom of Information Request show that there were 18,000 physical assaults against NHS hospital staff in a five year period from 2011 to 2016.

The [Assaults on Emergency Workers \(Offences\) Bill](#) is a Private Member's Bill introduced by Chris Bryant MP in the House of Commons on 19th July 2017. The next stage will be the Report stage in the House of Commons on 27th April 2018. The Bill creates a new offence of assault and battery committed against an emergency worker (with an increased maximum penalty of 12 months imprisonment), and also creates a statutory aggravating factor that will apply when other assaults and related offences are committed against emergency workers.

Further information can be found in the House of Commons Library [Briefing](#).