

## Written Response by the Welsh Government to the Report of the Health and Social Care Committee entitled – The Work of Healthcare Inspectorate Wales

May 2014

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Welsh Government welcomes the report produced by the committee following its inquiry on the work of the Healthcare Inspectorate Wales (HIW). The committee's findings, together with its key recommendation, and conclusion is generally in line with the Welsh Government's actions set out in *Delivering Safe Care, Compassionate Care* and commitment to bring forward legislation in the form of an NHS Quality Bill that will streamline and strengthen existing legislation. Scoping for future legislative proposals will consider the functions and legislative base for HIW. The issues that the committee has raised that aid its recommendation will help give focus and direction in ensuring that our inspectorates and regulators be more effective through collaboration and clarity of roles.

The report will also help in the overall aim to ensure HIW has better access to information and for the sharing of information to become a more proactive arrangement between NHS bodies, with a view to improve joint working and a co-ordinated approach to inspection.

The Welsh Government supports the view that HIW's role to provide the citizens of Wales with independent and objective assurance of the quality and safety of healthcare services needs improvement through clarity about its inspection regime, timely reporting and better access to information.

New emerging service models and the role of regulation and inspection of integrated care services will require a strong discipline of joined up working. The White Paper for the future of regulation and inspection of care and support in Wales<sup>i</sup>, sets a strategic direction that requires closer cooperation across those working in health and social care (including the third sector), and a new approach to delivery based on outcomes for citizens, rather than organisational boundaries. Our response to the committee's report highlights the activity, initiatives and programmes already being developed and implemented to improve regulation and inspection of the NHS in Wales.

A detailed response, with input from HIW to the report's recommendation and issues are set out on the following pages.

**Key recommendation:**

**The Committee recommends that the Welsh Government should undertake a fundamental review of HIW to reform, develop and improve its regulatory and inspection functions. Consideration of the need to reform HIW's statutory foundation should form part of this review, as should the key issues raised in this report. The review should be undertaken as a matter of urgency and should result in a clear outline of HIW's objectives and core purpose.**

**Response: Accept in Principle**

The Welsh Government supports the view that the current statutory landscape which supports regulation and inspection in healthcare functions needs review.

The Welsh Government is scoping policy for future legislative proposals to streamline and strengthen existing legislation regarding the quality of healthcare. Part of this exercise will include the legislation underpinning the roles and responsibilities of HIW. Securing the right basis for regulation and inspection requires a solid evidence base and understanding. It is also essential to create conditions in which a fundamental review can have the greatest impact. A review of this nature will take time; the Welsh Government would therefore seek to publish a Green Paper outlining proposals for an NHS Quality Bill before the next Assembly election.

Against this background, the Welsh Government also considers that HIW needs to be given the opportunity to stabilise as an organisation following a period of change before a review of its functions can take place. HIW is in the process of a recruitment exercise to increase capacity by summer 2014. It is also developing stronger relationships with inspectorates across the UK administrations, including the Care Quality Commission (CQC) in England, the Regulation and Quality Improvement Authority in Northern Ireland and Healthcare Improvement Scotland. This will enable shared learning and influence future ways of working for HIW, based on lessons learned from similar organisations.

There are other factors and actions that could also hinder an urgent review, such as:

- The *NHS Escalation and Intervention arrangements for handling serious issues facing Wales*<sup>ii</sup> that came into effect in April 2014 will need time to take effect and will undoubtedly influence future working across bodies and influence their work programmes.
- The Social Services Regulation and Inspection Bill, if passed by the Assembly, will not receive royal assent until January 2016 and will impact on integrated service models.

Furthermore a Programme for Government commitment to "review the framework for the external scrutiny of public services and the work of our auditors, inspectors and regulators" supports this. The review of Audit Inspection and Regulation in Wales (AIR) has commenced and includes three phases, which started with a consultation to support phase one, to establish a consensus on the principles of AIR. During the consultation period the Williams Commission report on public service governance and delivery was published. As a result, a decision to 'pause and review', has been taken, before the commencement of phase two. The 'pause and review', will provide more time to consider the phase one findings, and how well they align with the commission's recommendations as we move into phase two. It will also enable the strengthening of the alignment of relevant and related programmes of work within the audit, inspection and regulation landscape. The conclusions of this report will help shape future working arrangements across organisations, including HIW by supporting improvement through joint working, being more citizen focused and working transparently.

During the inquiry, the committee raised the option of using a mechanism such as an annual remit letter to formalise the operational independence of HIW. The Welsh Government will consider establishing a similar arrangement in discussion with the chief executive of HIW to ensure its operational independence is not fettered in any way. This will be taken forward now. Introducing such arrangements will need to be done with care so as to ensure HIW is, and is seen to be, independent, however we accept that it is also important that Ministers have an opportunity to be clear as to what they expect from the inspectorate.

HIW itself recognises it would be a valuable and a useful opportunity to take stock of how it has improved and it has asked the Auditor General for Wales if he would consider undertaking, as part of his programme of Value for Money studies, an independent review of delivery against HIW's plan and overall effectiveness. If he agrees with this proposal, it will be for him to determine the most appropriate timing for such a review.

The report also identifies a number of key issues which in the main fall to HIW directly. HIW has provided a response to each of these and we offer a Government view on this

**Key issue 1 – Delivery of the core purpose of HIW:**

**The Committee believes that HIW should publish a programme outlining its regulatory and inspection activity, including making public the detail of how often it intends to inspect the different healthcare providers and its capacity to fulfil its obligations. HIW should be clear about the inspection regime the public expects and consider how it will provide public assurance that services are safe and of high quality.**

### HIW's response

*We have published our operational plan for 2014-15, which explicitly sets out our work programme and priorities for the period. We have listened carefully to the feedback from our stakeholders, including the Health and Social Care Committee, and have recently made significant progress in building our capacity and capability. The plan sets out a fresh approach to the delivery of our core inspection programmes which will considerably increase our presence and visibility in the NHS and enable us to take a broader view on the standards of care provided.*

The Welsh Government considers that HIW's operational plan for 2014-15 published in March responds to many of the issues raised during the Committee's inquiry and in its report. In particular, a commitment to increase the volume of inspection activity and visibility in terms of its assurances to the public, in line with its increasing capacity this year.

### **Key issue 2 – Better use of information:**

#### **It is the Committee's view that:**

- 1) HIW should significantly improve the way it accesses and handles intelligence and information, ensuring it has access to timely information from all the relevant bodies.**
- 2) HIW should make clear the range of data it uses to try to spot patterns which identify or predict poor quality care for patients, making transparent the processes in place to identify and respond swiftly to incidences of serious concern or systemic failures.**
- 3) CHCs should be more proactive in sharing their information with HIW so that they fulfil the fundamental role they have to play in supporting the inspection regime. This will improve joint working, ensure that inspections are better co-ordinated, and enable HIW to focus activity on the areas where the risks are highest.**

### HIW's response

- 1) Our operational plan 2014-15 sets out targets to refresh our memoranda of understanding (MOUs) and how we handle intelligence, in particular we will evaluate our approach to risk assessment.*
- 2) More collaboration with other bodies including Welsh Government and Wales Audit Office will be conducted to the way in which concerns are responded to, particularly through the enforcement activities and implementation of the NHS Wales Escalation and Intervention Arrangements, which were recently agreed with the Welsh Government*
- 3) During 2014-15 we will*
  - a. implement our operating protocol with Community Health Councils (CHCs) across Wales to better share evidence to identify problem*

*areas earlier, ensuring the experiences and views of patient help us to inform the risk assessment process.*

- b. review our memoranda of understanding, operating protocols and information sharing protocols for completeness, appropriateness and consistency*
- c. ensure that all memoranda of understanding and associated protocols are up to date and published on our website.*

The Welsh Government agrees that access to information through better sharing and the proper use of data is a key factor to improved joint working across inspectorates and HIW's operational plan supports this approach.

In responding to the committee's report, CHCs have outlined a number of improvements that support this approach, including a routine mechanism to share information and intelligence to identify trends. The CHCs have provided HIW with information from their database to support their ongoing inspection programme.

There are further examples which demonstrate an ongoing commitment, such as:

- Single points of staff contact being established in both HIW and CHC to manage the operating protocol development.
- CHCs being actively involved with HIW and other stakeholders in the process of healthcare summits (annual) and the development of more regular 'mini summits'.
- A primary aim to establish operating protocol provisions into routine working going forward, rather than identify 'quick wins'. This work will involve a closer scrutiny of how the concordat serves to maximise HIW-CHC inspection activities and to avoid duplication.

It is clear that there is a proactive and sustainable approach being established between HIW and the CHCs which the Welsh Government will continue to encourage.

### **Key issue 3 – Providing information to the public:**

**The committee's view is that HIW needs a renewed sense of purpose, understanding that it exists to ensure that providers meet basic standards and to intervene when they do not. Inspection reports take too long to be published and are not effectively communicated to the general public. HIW needs to give assurances to patients and the public that it has a coherent plan to make sure healthcare providers are appropriately examined and held to account. To achieve this HIW needs to:**

- 1) publish its inspection reports in a timely fashion;**

- 2) **increase and improve the accessibility of information it makes available to the public, making clear how it intends to follow up on its recommendations and the action it will take if progress is not made; and**
- 3) **transform its website into a user-friendly, transparent and comprehensive information portal which reflects the reports it has produced and the work it has undertaken.**

#### HIW's response

- 1) *2014-15 will see further improvement to our systems for planning and performance management. During the year we will continue to develop explicit standards against which we can assess our performance.*
- 2) *We have set explicit standards for reporting which will result in immediate feedback of findings to inspected bodies; draft reports issued within three weeks and a report published on our website within three months*
- 3) *A new website will be launched in April 2014 which will make information easier to find and we will continue to improve the content throughout the year.*

The Welsh Government recognises that HIW is part of the public assurance system and supports the Committee's view that it needs a renewed sense of purpose in relation to the timely publication and accessibility of inspection reports. During the inquiry, HIW recognised the need to improve the way in which it communicates its functions, including what it finds during inspections. It agreed that every step of the process in terms of what it does to assure itself of the safety and quality of services needs to be in the public domain. The Welsh Government welcomes HIW's commitment to improve in this area.

#### **Key issue 4 – Building a high performing organisation:**

**In 2011, HIW undertook a review of the services provided by its external reviewers.**

- 1) **HIW should publish the findings of this review to provide assurances that the organisation is striking the right balance between use of external reviewers and clinical inspectors.**
- 2) **HIW should make public its approach to the appointment and use of external reviewers and identify clearly its future needs.**

#### HIW's response

- 1) *The 2011 review will be published on our website.*
- 2) *In 2014 we commenced a successful programme of recruitment. Our approach to the appointment and use of external reviewers is clearly set out on our website.*

The Welsh Government agrees with the committee's view that HIW needs to retain a central core of staff with appropriate skills to direct and manage their challenging programme of work. During the inquiry, HIW set out how it balances the use of lay reviewers, peer reviewers and external reviewers, with assurances that reviewers are appropriately trained and supported. Welsh Government welcomes HIW's assurance that its recruitment exercise will result in increased capacity to deliver a programme of work that is affordable within its allocated budget. Welsh Government also supports its approach in maximising its use of resources.

#### **Key issue 5 – Retaining validation:**

**Although the Committee supports HIW's decision to move away from a heavily validation-based system of assessment, we nevertheless believe that there must not be an over-reliance on self-assessment – an appropriate level of validation must remain. HIW needs to clarify what external validation will be done to provide assurance that a self-assessment undertaken by a healthcare organisation is sufficiently robust, and to enable health bodies to benchmark their performance and effectiveness.**

#### HIW's response

*We will continue to work with the Wales Audit Office (WAO) to validate and provide feedback to NHS organisations on their corporate level self-assessment of performance against the standards using the governance and accountability self-assessment module.*

There is a Welsh Government commitment in *Delivering Safe Care, Compassionate Care* to update the fundamental standards of care and embed these fundamental requirements within a refreshed *Doing Well, Doing Better*<sup>iii</sup> framework. A scoping exercise for future legislative proposals will support a refreshed set of standards and consideration will be given to the role that HIW will play in ensuring compliance with the standards.

#### **Key issue 6 – Integrated health and social care:**

**We believe that the review we have recommended the Welsh Government should undertake of HIW's regulatory and inspection functions should explicitly consider its role in relation to new models of healthcare. Specific consideration should be given to:**

- 1) how HIW's work, in the context of new models of integrated care, sits alongside that of other regulatory inspection bodies and**
- 2) what its role should be in relation to primary care.**

## HIW's response

- 1) *Our operational plan describes our collaborative approach which recognises the specific role that we play in the wider assurance framework for healthcare providers in Wales and aims to ensure that we work effectively with other audit, inspection, regulation and scrutiny bodies in order to discharge our functions.*
  
- 2) *We have stated our commitment to primary care in the operational plan. Specifically through the development of new inspection programmes relating to dental services and general practice.*

The Welsh Government commitment to bring forward legislation in the form of an NHS Quality Bill will streamline and strengthen existing legislation. The scoping exercise to support the development of legislation will look to review the functions and legislative base for HIW.

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<sup>i</sup> <http://wales.gov.uk/consultations/healthsocialcare/support/?lang=en>

<sup>ii</sup> <http://wales.gov.uk/topics/health/publications/health/guidance/escalation/?lang=en>

<sup>iii</sup> <http://wales.gov.uk/topics/health/publications/health/letters/2010/healthservicesstandards/?lang=en>