National Assembly for Wales
Health and Social Care Committee

The work of Healthcare Inspectorate Wales

March 2014

Cynulliad Cenedlaethol Cymru
National Assembly for Wales

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Health and Social Care Committee

The Committee was established on 22 June 2011 with a remit to examine legislation and hold the Welsh Government to account by scrutinising expenditure, administration and policy matters encompassing: the physical, mental and public health of the people of Wales, including the social care system.

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South Wales East

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Welsh Liberal Democrats
Brecon and Radnorshire

William Graham was also a member during the period of the inquiry.

William Graham
Welsh Conservatives
South Wales East

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Chair's foreword

In July 2013, the Health and Social Care Committee announced its intention to undertake an inquiry on the work of Healthcare Inspectorate Wales. Our aim in undertaking this inquiry was to identify whether the health services inspection regime in Wales is able to meet its obligations and provide the necessary reassurances to the people of Wales that standards of health care are being met.

We set out with a clear aim: to hold a challenging and constructive conversation about the activities and effectiveness of Healthcare Inspectorate Wales in assuring the quality and safety of healthcare services in Wales. The timing of the inquiry was such that it followed the publication in February 2013 of the report of the Francis Inquiry, and the Welsh Government's response to that report in July 2013. It was in the context of these important pieces of work that we framed our inquiry.

The Committee believes that the need to protect against the risk of any wide systemic failure with regards to quality and safety within the health service is as relevant in Wales as in any other nation. One of the key mechanisms to guard against such failure is the effective operation of the healthcare inspection and regulation regime. In undertaking this inquiry we sought insight into this regime in Wales. Our aim was to reassure ourselves that circumstances akin to those which led to the Francis Inquiry had not arisen – and could not arise – in Wales without detection. This report details the evidence we received and the conclusions we have drawn in the light of that evidence.

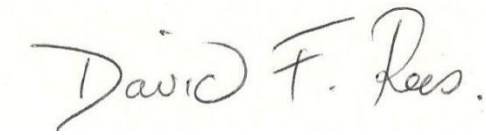
As you will see, the Committee did not receive the reassurances we wanted about the role of Healthcare Inspectorate Wales in ensuring that healthcare providers are examined thoroughly and systematically in terms of the quality and safety of the services they provide. Furthermore, we were not reassured that providers always face sufficient intervention and review when basic standards are not met.

It is our view that matters relating to the standards and quality of healthcare services cannot be compromised upon. It is important to emphasise that at no point during our inquiry did we identify serious issues relating to quality and safety of services. It is equally important to emphasise, however, that we did not feel entirely reassured that, should such issues arise in the Welsh

NHS, they would be detected in a timely or systematic way if we were to rely upon HIW alone.

Given the importance of our conclusions we have sought to make one simple, but vital, recommendation. We believe that the Welsh Government must undertake a fundamental review of the core functions and purpose of Healthcare Inspectorate Wales and that this review should be undertaken as a matter of urgency. To aid this review, we have listed the key issues which have emerged from our inquiry as part of the report. As a Committee we are committed to returning to this matter to ensure that the important points we have raised are addressed in a timely and robust manner.

I would like to take the opportunity to thank those who took the time to provide written and oral evidence. My particular thanks go to representatives of Healthcare Inspectorate Wales, who have co-operated fully with the Committee throughout our inquiry.



David Rees
Chair of the Health and Social Care Committee
March 2014

The Committee's key conclusion and recommendation

The Committee's key conclusion and recommendation to the Welsh Government are outlined below. The information that has shaped this key conclusion and recommendation is presented in the body of our report.

Key conclusion: The Committee decided to undertake a review of the work of Healthcare Inspectorate Wales (HIW) to satisfy itself that the health services inspection regime in Wales is fit for purpose. The Committee did not receive the reassurances it wanted to hear about the role of HIW in ensuring that healthcare providers are examined properly, meet basic standards, and face sufficient intervention when basic standards are not met.

Furthermore, the Committee did not receive reassurances that the purpose and role of HIW has been defined sufficiently to provide a clear, robust and understood inspection and regulatory regime. It is our view that this lack of clarity has undermined HIW's ability to establish itself as an authoritative regulator. A clearer purpose would help to strengthen how HIW delivers its responsibilities and to set out what it intends to achieve through its regulatory and inspection activity.

The Committee believes that providing clarity about the statutory landscape, which currently appears cluttered and opaque, would help set a clearer direction and improve the accountability of the regulator. It is the Committee's view that reforming the statutory foundation of HIW would help to ensure a more effective regulator of healthcare. We also believe that this could help address our concerns about HIW's ability to demonstrate its independence from Government in a way other inspectorates, such as Estyn, are able to do.

The Committee is aware that the *Programme for Government* contains a commitment to 'review the framework for the external scrutiny of public services and the work of auditors, inspectors and regulators'.[1] The Welsh Government has confirmed that this review will cover the work of HIW.[2] However, the Committee believes that the current system is not providing the necessary reassurances that HIW can fully undertake its role and that a detailed, thorough review of the purpose and function of HIW should be undertaken as a matter of urgency.

[1] Welsh Government, *Programme for Government,* p8, 27 September 2011
[2] Welsh Government, *Review of Audit, Inspection and Regulation in Wales*, 16 April 2013

It is important to emphasise that at no point during our inquiry did we identify serious issues relating to quality and safety of services. It is equally important to emphasise, however, that we did not feel entirely reassured that, should such issues arise in the Welsh NHS, they would be detected in a timely or systematic way if we were to rely upon HIW alone.

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. (Page 24)

Key issues raised in this report

Listed below are the key issues identified by the Committee during our inquiry. We believe that these issues should be considered as part of the fundamental review of HIW that we have recommended.

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. (Page 27)

Key issue 2 – Better use of information: It is the Committee's view that:

- 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.
- 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.
- 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. (Page 30)

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:

- publish its inspection reports in a timely fashion;

- 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
- 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. (Page 34)

Key issue 4 – Building a high performing organisation: In 2011, HIW undertook a review of the services provided by its external reviewers. 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. HIW should make public its approach to the appointment and use of external reviewers and identify clearly its future needs. (Page 35)

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. (Page 38)

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 how HIW's work, in the context of new models of integrated care, sits alongside that of other regulatory and inspection bodies and what its role should be in relation to primary care. (Page 41)

1. The work and purpose of Healthcare Inspectorate Wales

1. Since Healthcare Inspectorate Wales (HIW) was established on 1 April 2004, its responsibilities have expanded considerably to incorporate a wide range of independent inspection and investigative functions. HIW's main functions and responsibilities are drawn from the following legislation:

- Health and Social Care (Community Health and Standards) Act 2003;
- Care Standards Act 2000 and associated regulations;
- Mental Health Act 1983 and the Mental Health Act 2007;
- Statutory Supervision of Midwives as set out in Articles 42 and 43 of the Nursing and Midwifery Order 2001; and
- Ionising Radiation (Medical Exposure) Regulations 2000 and Amendment Regulations 2006.

2. HIW was initially set up as an internal unit of the Welsh Government, under the Department for Public Services and Performance, to undertake the function of carrying out reviews into the provision of NHS-funded healthcare within Wales, under section 70 of the Health and Social Care (Community Health and Standards) Act 2003. HIW inspects NHS bodies and services, including the seven Local Health Boards and three NHS Trusts.

3. HIW's statutory role does not routinely include investigating individual concerns or complaints received by patients or the wider public about the particular circumstances of an individual patient's care and treatment. Nor does it have a specific role with regard to individual complaints about professional misconduct, change to service configurations or specific matters which are subject to legal processes.

4. With effect from 1 April 2006, HIW took on the function of regulator of independent healthcare under the Care Standards Act 2000, and has full delegated authority for its regulatory decisions. Since 2006, the additional responsibilities transferred to HIW include:

- the regulation of independent healthcare;
- the statutory supervision of midwives;
- the provision of clinical advice to the Prison and Probation Ombudsman as part of its investigations into deaths in Welsh prisons;

- independent reviews of homicides where the perpetrator was a Mental Health Service User; and
- ensuring compliance with the Ionising Radiation (Medical Exposure) Regulations 2000 (as amended in 2006).

5. More recently, in 2009, HIW took on responsibility for the provision of a review service for mental health (through the transfer of work from the former Mental Health Act Commission), monitoring the implementation of Deprivation of Liberty Safeguards (DOLS) and the registration of independent dentists in Wales.

2. The evidence to our inquiry

Purpose and functions

6. The Committee heard during its evidence sessions that the range of functions and statutory responsibilities that fall to HIW has grown significantly since its establishment in 2004. These functions and responsibilities are underpinned by legislation drawn from a number of areas.

7. The Committee heard overwhelming evidence that HIW is 'over-stretched' and 'under-resourced'. During the Committee's evidence session on 17 October 2013, Wales Audit Office (WAO) witnesses made the point that HIW is carrying out, within Wales, functions that are spread over a range of different bodies in England, and expressed concerns about the breadth of its work and what it means in terms of its resources.[3] The Auditor General for Wales, Huw Vaughan Thomas, stated:

> "The range of functions that have been laid at HIW's door is formidable. It is not sufficiently resourced to deliver that. It is having to make day-to-day decisions. Many of them are regulations; because they are devolved, somebody has to take them in Wales, and they go to HIW […] I think that there is a need to make sure that you know what the mission HIW really needs to perform is, and make sure that it is adequately resourced."[4]

8. Although HIW could not provide clarity on the total complement of staff it needs to fulfil its obligations, the Committee was concerned to hear evidence from key witnesses, including the Care and Social Services Inspectorate Wales (CSSIW),[5] Health Boards,[6] the Board of Community Health Councils in Wales,[7] the Patients Association,[8] and the Welsh Independent Healthcare Association (WIHA),[9] that capacity issues were affecting HIW's ability to deliver its functions.

9. One noticeable impact of HIW's limited capacity is on its ability to deliver its published programme of work. The WAO identified the thematic

[3] RoP, 17 October 2013, p.5, para. 13
[4] RoP, 17 October 2013, p.11, para. 66
[5] RoP, 17 October 2013, p.6, para. 15
[6] RoP, 17 October 2013, p.17, para.107
[7] RoP, 17 October 2013, p.30, para. 202
[8] RoP, 17 October 2013, p.30, para. 204
[9] RoP, 17 October 2013, p.40, para. 333

reviews aspect of HIW's work as the area that tends to be under-resourced, stating that HIW's capacity is skewed more to the regulation side of its work. Dave Thomas, Director of Health and Social Care at the WAO, stated:

> "Huw [Auditor General for Wales] and Imelda [Chief Inspector of CSSIW] have already raised the capacity issue. There is a question of rationalisation as well. One of the issues to be looked at is the rather eclectic mix of the regulation side of HIW's work. Huw has indicated that that is skewing its capacity more to that side of its work, and leaving less capacity for the more quality and safety-driven inspection work, which, in the current climate of post-Francis, is hugely important. So, it is timely to ask, 'What is the scrutiny function of HIW and, therefore, what size and shape should it be to deliver that function?'."[10]

10. The Auditor General for Wales warned that, in some instances, areas of work have not been looked at because they have been taken out of the work programmes of other regulation and inspection bodies in anticipation of the work being completed by HIW, only for that not to be the case:

> "…I suppose that I am concerned because the area that tends to suffer is that of studies. They are clearly given priority in terms of some of its regulatory inspections, but we would like to ensure that we are able to do relevant studies. If we know that HIW is planning to do one, then we will not. However, on the other hand, if it is not going to do it, sometimes we think that the issue is important so we would want to do it. So, it is the impact of its limited resources that worries me."[11]

11. He went on to say:

> "…what I want to be able to do is to rely on a programme of work. I think that the pressure that it [HIW] is under means that I cannot rely on it 100% and gaps therefore occur."[12]

12. In his written evidence, the Auditor General stated that:

> "…capacity constraints and the need to be reactive to unforeseen incidents and concerns have made it difficult for HIW to start several of their thematic reviews within the timescales originally set out."[13]

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[10] RoP, 17 October 2013, p.6, para. 17
[11] RoP, 17 October 2013, p.5, para. 13
[12] RoP, 17 October 2013, p.15, para. 98

13. A number of witnesses made the case for revisiting and clarifying what is expected of HIW. In particular, they suggested that there is a need to look at the various functions that HIW is now exercising and whether they belong to that core function, or could be done by another body. This point was made by the WAO.[14] The Chief Executive of Aneurin Bevan University Health Board, Andrew Goodall, supported this view, stating that:

> "I think that even coming into this review process is a good reminder to all of us of the breadth of areas that HIW has taken on over the years…So, in terms of a refresh – and I cast it in the light of the learning that we need to do as a service about the Francis recommendations etc – I think that it would absolutely be right to focus on what the core objectives are, but, again, to make sure that the capacity is lined up, and the understanding to take that forward."[15]

14. Responding to these concerns, the Chief Executive of HIW, Kate Chamberlain, told the Committee that in her view, the role of HIW is "about right",[16] but did recognise that HIW is struggling to deliver on its responsibilities. The Chief Executive attributed many of the capacity concerns raised by witnesses to problems with recruitment:

> "In terms of the range [of functions], I think that it is appropriate that they should be with HIW. There are maybe one or two of them that might have a more appropriate home, but there are also maybe one or two things that are done elsewhere that it might be appropriate to locate with HIW. However, broadly, I think that our role is about right.
>
> "We do have issues though, possibly, in terms of the capacity that we have to deliver on responsibilities. What you will have heard from quite a number of the evidence submissions that you have had and the oral evidence that you have heard is that we have struggled to deliver, particularly in terms of the timeliness of some of the reporting. I do not want to step too far back, but since 2010, when the organisation last went through an organisational redevelopment, we have had some problems in recruiting staff and in being able to

[13] WAO written evidence
[14] RoP, 17 October 2013, p.13, para. 80
[15] RoP, 17 October 2013, p.21, para. 142
[16] RoP, 7 November 2013, p.4, para. 6

> retain staff within the organisation. That is something that has impacted on our ability to deliver across the full range of functions."[17]

15. The Deputy Chief Executive of HIW, Mandy Collins, reinforced the point that the organisation has had "issues with staffing, not just in relation to numbers, but in terms of capability and competency".[18] This was a view shared by the Chief Inspector of CSSIW, who referred in her oral evidence to capacity and expertise issues leading to problems with capability in HIW.[19]

16. The Chief Executive of HIW sought to reassure Members that the organisation has been "very successful recently in recruiting to a key number of posts", and that HIW is "in a much better position now in terms of moving forward".[20]

17. On the specific question of whether any of the responsibilities currently undertaken by HIW could be done by other external bodies, or by the Welsh Government itself, the Chief Executive of HIW identified the role of the local supervising authority for midwives as one possible function that does not have a clear fit with the role of the organisation, stating that it is a "regulation-of-professionals role" rather than an "oversight-of-the-service-type role".[21] There were no other such functions identified by HIW.

18. The Minister for Health and Social Services, Mark Drakeford AM, told the Committee that he would be happy to look at the functions for which HIW is responsible, in order to consider whether any could be done by other bodies:

> "I am very happy to look at that issue, and I know that it has been raised with the Committee previously. I will take just one minute if I may, Chair, to remind Members of the original history of HIW. HIW is a product of the very first term of the Assembly. In those early days, Welsh health services were inspected by CHI, the Commission for Health Improvement. A number of the inspections that CHI provided were very unsatisfactory indeed. The then director of the NHS, Ann Lloyd, was very determined that we create a health inspectorate of our own that understood the way that policy in Wales was being developed, and that was close enough to the ground to be able not to have the wool pulled over its eyes when it went into organisations, but we did not have the powers in our own hands at that time to

[17] RoP, 7 November 2013, p.4, paras. 6-7
[18] RoP, 7 November 2013, p.5, para. 14
[19] RoP, 17 October 2013, p.5, para. 15
[20] RoP, 7 November 2013, p.4, para. 9
[21] RoP, 7 November 2013, p.10, para. 56

legislate. So, the legislation that set up HIW had to be carried out on our behalf at Westminster, and there were some inevitable compromises along the way in getting HIW set up.

"Since then, it is fair to say that it has had some additional responsibilities accreted to it, because it was there, and therefore it was a place where something that needed to be done could be done […] There might be things now, 10 years later, that HIW has picked up along the way that we could allocate elsewhere in order to help it with some of the prioritising issues that we have been talking about."[22]

Independence and Special Measures

19. HIW carries out functions on behalf of the Welsh Ministers and, although it is part of the Welsh Government, protocols have been established to safeguard its operational autonomy and independence. HIW is accountable to the Minister for Local Government and Communities as opposed to the Minister for Health and Social Services, which means that the Health Minister is not responsible for determining or agreeing how the functions of HIW should be performed, or how its resources are prioritised. HIW does not receive an annual remit letter, nor does HIW have regular scheduled meetings with the Health Minister.[23]

20. In its written evidence, the WAO raised concerns about the independence of HIW, particularly with regards to being able to enact its powers and use special measures. The WAO was concerned that the current arrangement, whereby HIW can only use these powers with Ministerial agreement, could "potentially fetter HIW's ability to act autonomously, independently and swiftly should it encounter concerns at an NHS body".[24] Neither HIW nor the Minister for Health and Social Services shared these concerns. The Chief Executive of HIW stated that:

"It is probably not a concern that I share. I have not been here long enough to say that I have never been stopped or had a recommendation refused, but certainly my perception, in terms of the independence that we have to respond to the issues that we find, is that I have never had any indication that I would be prevented from doing so. I think that part of the insurance that sits around that is that, because of the independent nature of my role, there is nothing

[22] RoP, 7 November 2013, paras. 346-347
[23] RoP, 7 November 2013, p.5, paras. 17-18; paras. 23-25
[24] WAO written evidence

> to prevent me from publically stating that I have made a recommendation to the Minister that such and such an organisation should be put in special measures. So, because I have that freedom, I would have no problem in doing that. That is the sort of information that should be placed in the public domain alongside the response of the Minister with either a 'yes' or a 'no' and, 'This is what we are doing about it'."[25]

21. However, the Chief Executive of HIW did recognise that there is no single, clear definition of what constitutes special measures, stating that "depending on the nature of the issue, there could be a range of possible responses to that".[26] She also made the point that "it is also possible to say that, on occasion, action is taken that might constitute special measures by any reasonable definition, but it is not called that".[27] The Chief Executive agreed that clarity of the term 'special measures' was needed, alongside a clearer understanding about what the escalation process is when concerns arise, what the triggers are for taking those concerns to the next level and, quite explicitly, who has the responsibility to act when concerns are triggered and escalated in that way.

22. As things currently stand, HIW has the ability to place NHS bodies under 'special measures' but it cannot do so without the permission of the Welsh Ministers because it is a Government department and therefore has no separate legal personality.

23. During the evidence session on 17 October 2013, the WAO witnesses raised two concerns about the current arrangements:

> "We were concerned about two things. The first was that there was not an understood escalation process within the Welsh Government and the second was the extent of the input of special measures and what it meant [...] If you use phrases such as 'special measures', it needs to be understood: what exactly is the first level of a special measure and so on."[28]

24. The Director of Health and Social Care for the WAO added:

> "I think that there is a really important question to be asked as to what the phrase 'special measures' means. At the moment I think

[25] RoP, 7 November 2013, p.17, para. 121
[26] RoP, 7 November 2013, p.17, para. 118
[27] Ibid
[28] RoP, 17 October 2013, p.8, para. 44

> that it means anything from just weekly reporting through to the removal of functions perhaps. It could be that broad. I think that some definition of that within the context of the escalation intervention triggers that HIW mentioned is going to be important. In terms of building independence, you will need those special measures, whatever they are, to be enacted quickly. If there is going to be a process to go through to get permission and the approval to do it, then that will slow down the process. So, I think that that is partly why we raise it. First, you should clarify what you mean by 'special measures' and then how they would work in practice and how they would work swiftly where you need to make urgent changes."[29]

25. The Board of Community Health Councils told the Committee that they had no understanding of how the escalation process works within HIW and Welsh Government, nor what constitutes special measures or what happens if special measures are enacted.[30]

26. The Minister for Health and Social Services informed the Committee that he has asked the WAO, HIW and Welsh Government officials to undertake work to clarify the arrangements around what special measures might be, which he indicated would be completed early in 2014.[31] The Committee believes that a protocol on what constitutes special measures will help provide clarity about – and a better understanding of – what the escalation process is, what the different levels of a special measure are, and how they are used and made public.

Response to the Francis Inquiry

27. The Welsh Government published its response to the Francis Inquiry into the Mid-Staffordshire NHS Foundation Trust in July 2013.[32] HIW explained that it has been reflecting on the Francis Inquiry, the Keogh Report, and the challenges facing healthcare in Wales to assess whether the expectations of what HIW should deliver are clear and are capable of being met.

28. Members raised concerns about the balance between regulation and inspection activity, particularly how few of the reports published on the HIW

[29] RoP, 17 October, p.9, para. 47
[30] RoP, 17 October 2013, p.35, para. 277
[31] The results of this work were not publicly available at the time this report was considered and agreed by the Committee.
[32] Welsh Government, *Delivering Safe Care, Compassionate Care: Learning for Wales from The Report of the Mid Staffordshire NHS Foundation Trust Public Inquiry*, July 2013

website relate to hospitals. HIW told the Committee that its inspection activity is focused around the needs of priority issues and vulnerable groups, for example Dignity and Essential Care Inspections, Cleanliness and Infection Control, and Mental Health and Learning Disability services.

29. HIW explained that its work programme is "adapted to accommodate targeted reviews where concerns are identified",[33] citing examples such as the programme of reviews of independent learning disability and mental health providers following Winterbourne View, and governance reviews such as that of Betsi Cadwaladr University Health Board. The Chief Executive of HIW acknowledged that such reviews inevitably involve taking some of HIW's capacity away from their core work programme within NHS hospitals.[34] Members were concerned about the knock-on effect of such reviews on some other parts of HIW's work.

30. In terms of recent activity, HIW told the Committee that the decision to invest capacity in a programme of reviews of independent learning disability and mental health providers was based on the highest risk. The Deputy Chief Executive of HIW explained:

> "If we were totally honest, post-Winterbourne, we could not assure ourselves or be assured that we did not have a Winterbourne in Wales. Therefore, we rolled out this programme."[35]

31. In addition to Winterbourne View, HIW witnesses were asked about their inspection of NHS hospitals, particularly whether they could be confident that the current regime could detect a situation akin to that which occurred in Mid Staffordshire.[36] The Chief Executive of HIW highlighted the importance of recognising that "the responsibility for day-to-day management of safety and quality rests with the local health boards"[37] and that the role of the Inspectorate is to test, probe and look at the intelligence to see whether there are any warning signs that there may be some significant systemic issue that needs investigating.[38]

32. However, throughout her answer, the Chief Executive said that a public discussion was needed to make clear what the role of HIW is in the process and how the external assurance framework should fit together:

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[33] HIW written evidence
[34] RoP, 7 November 2013, p.5, para. 11
[35] RoP, 7 November 2013, p.5, para. 12
[36] RoP, 7 November 2013, p.6, para. 32
[37] RoP, 7 November 2013, p.6, para. 33
[38] RoP, 7 November 2013, p.6, para. 33

> "I think there is room for a legitimate conversation about what sufficient testing actually is, within the context of the way these things work in Wales. For example, one of the things that I have been doing since I came in is to start thinking about how we would plan a sufficiently robust testing of practice within different NHS and independent care settings. My view is that, in order to do something that is sufficiently robust, you would probably want to have a minimum level of visiting, or a minimum frequency of visiting, for particular settings. There is certainly room for discussion about how frequent that should be, but you can start asking whether we should, for example, go into every acute hospital once or twice a year and into every community hospital once a year, or once every three years."[39]

33. The Chief Executive sought to assure members of the Committee that she is satisfied that the way in which HIW is currently using its capacity enables the Inspectorate to respond to issues and concerns promptly,[40] although she recognised that 'testing' in some areas was perhaps not sufficient. The Chief Executive went on to explain, however, that:

> "…my concern at the moment, in terms of being able to give you the assurance that you want, is that I am not convinced that we have sufficient coverage, in terms of testing, for me to be able to give you that strong assurance. Certainly, on the back of some of the preliminary analysis that I have done, I have some concerns about whether, even with a full complement [of staff], we would be able to do enough for me to be able to satisfy myself to that extent."[41]

34. The Chief Executive of HIW acknowledged that the organisation does not have the capacity to undertake additional inspections, and was clear that the organisation does not have the resources to undertake an adequate number of unannounced inspections.[42]

35. Similar concerns about HIW's capacity were highlighted by the WAO witnesses. When asked whether capacity issues within HIW pose a risk to its ability to provide assurances about the quality of care in hospital and other health settings in Wales, Dave Thomas, Director of Health and Social Care at the WAO, stated:

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[39] RoP, 7 November 2013, p.6, para. 34
[40] RoP, 7 November 2013, p.8, para. 39
[41] RoP, 7 November 2013, p.7, para. 35
[42] RoP, 7 November 2013, p.16, para. 115

> "I think that you would have to be honest and say that there is a risk. We cannot sit here and say that there are capacity constraints and that it is not covering all the bases and then say that there is no risk. It would not add up. It [HIW] is doing the best with its resources."[43]

36. This view was shared by the Board of Community Health Councils in Wales and the Patients Association, who stated in response to a question about whether HIW is fit for purpose that:

> "**Ms O'Sullivan (Board of Community Health Councils**: I think that we have the makings of that system.
>
> **"Ms Murphy (Patients Association)**: I would like to feel confident that that system is in place, but I cannot assure you that it is."[44]

37. The Minister for Health and Social Services acknowledged that he does have concerns about the capacity of HIW to carry out the functions for which it is responsible, stating that it is important for HIW to fulfil the inspection regime it thinks is right and proper. However, the Minister also made clear his view that HIW has to prioritise its work within the budget it currently has. When asked whether he is comfortable, as Minister, hearing evidence from the Inspectorate that it would prefer to undertake inspection of visits of:

- community hospitals once every three years, rather than the current arrangement of once every five years, and
- district general hospitals at least once every year, and the bigger district general hospitals more frequently than that, rather than the current arrangement of once every three years,

the Minister replied:

> "It [HIW] has told you what it thinks its inspection regime should be. Do I think that it ought to be able to fulfil the regime that it thinks is the right one? I think that that is what it should be able to. However, it is no different to any other organisation in having to fit what it does against the many other demands that it has to meet and the resource that it has available to it, and I do not simply mean that in terms of money—as you know, it has been an organisation that has had some challenges in recruiting and retaining staff to carry out its functions. So, if your question to me was about it saying that it ought to be able to inspect against this sort of time frame, then I think that

[43] RoP, 17 October 2013, p.12, paras. 68-69
[44] RoP, 17 October 2013, p.39, paras. 318-319

it ought to be able to do that, but it has to make those judgements and it has to prioritise its work within the constraints that it operates within like anybody else."[45]

Our view

38. The Committee was concerned to hear from the Chief Executive of HIW that the organisation does not have sufficient capacity, even with a full complement of staff, to undertake adequate inspection activity of healthcare organisations in Wales and is therefore unable to assure Members of quality and safety. The Committee believes that HIW has to build public and professional confidence in the organisation and that a clearer purpose would help to strengthen how HIW delivers its responsibilities and to set out what it intends to achieve through its regulatory and inspection activity.

39. The Committee did not receive reassurances that the purpose and role of HIW has been defined sufficiently to provide a clear, robust and understood inspection and regulatory regime. It is our view that this lack of clarity has undermined HIW's ability to establish itself as an authoritative regulator.

40. The Committee believes that providing clarity about the statutory landscape, which currently appears cluttered and opaque, would help set a clearer direction and improve the accountability of the regulator. It is the Committee's view that reforming the statutory foundation of HIW would help to ensure a more effective regulator of healthcare can be built. We also believe that this could help address our concerns about HIW's ability to demonstrate its independence from Government in a way other inspectorates, such as Estyn, are able to do.

41. The Committee is aware that the *Programme for Government*[46] contains a commitment to 'review the framework for the external scrutiny of public services and the work of auditors, inspectors and regulators'. The Welsh Government has confirmed that this review will cover the work of HIW.[47] However, the Committee believes that the current system is providing the necessary reassurance that HIW can fully undertake its role and that a detailed, thorough review of the purpose and function of HIW should be undertaken as a matter of urgency.

[45] RoP, 7 November 2013, p.38, para. 305
[46] Welsh Government, *Programme for Government,* p8, 27 September 2011
[47] Welsh Government, *Review of Audit, Inspection and Regulation in Wales*, 16 April 2013

42. It is important to emphasise that at no point during our inquiry did we identify serious issues relating to quality and safety of services. It is equally important to emphasise, however, that we did not feel entirely reassured that, should such issues arise in the Welsh NHS, they would be detected in a timely or systematic way if it were left to HIW alone.

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.

3. Key issues for Healthcare Inspectorate Wales

Work programme

43. In terms of current inspection activity, several witnesses highlighted the importance of unannounced spot checks undertaken by HIW, stating that these represent a real strength for Wales. Some witnesses felt this area is one which could be expanded.[48]

44. The WAO witnesses explained that the spot checks carried out by HIW are extremely valuable to the WAO in undertaking their role in looking at the governance of bodies. The Auditor General for Wales referred to the joint work between HIW and the WAO on Betsi Cadwaladr Health Board to illustrate this:

> "If I use Betsi Cadwaladr as an example, the area that brought HIW and our own resources together was looking at how the impact of that governance was actually being chased down in terms of standard of care, and we identified then the gap between the ward and the board. We relied in that process on HIW's ability to look at the clinical governance arrangements. We looked at the way in which the board worked, the use of resources and so on, but both were needed together […] What we do want to rely on, of course, in that process, is that HIW is carrying out its spot checks on various aspects, and is able to tell us its view about the clinical governance arrangements. If we have that, we have a holistic picture. If we cannot rely on that, because of resources, or it is not able to carry out those spot checks, our ability to take a proper look at each organisation suffers."[49]

45. The Director of Health and Social Care at the WAO added:

> "You cannot totally rely on the external world to keep finding issues; you have to encourage internal governance systems in health bodies to find these for themselves. That external spot check on top of that can provide you with the assurance that it is happening. I think that we would simply say that there should be more of that."[50]

46. However, the Chief Executive of HIW made the point during the oral evidence session on 7 November 2013 that:

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[48] RoP, 17 October 2013, p.11, para. 69
[49] RoP, 17 October 2013, p.11, para. 63
[50] RoP, 17 October 2013, p.12, para. 69

> "We have the capacity for unannounced inspections and we do them. I am not convinced that I have capacity for sufficient unannounced inspections."[51]

47. The Chief Executive added that HIW does not currently have an inspection cycle for healthcare organisations, stating that clarity is needed about, for example, what the minimum frequency of inspections might be.[52] She explained that being explicit about that would help facilitate a discussion more widely about whether provision is sufficient. The Chief Executive added that "it has to be rooted in our capacity to deliver".[53]

48. In terms of current capacity, HIW explained:

> "This, again, brings us back to what we think is the minimum baseline frequency versus the amount that we need to do to respond. Again, going back to some of the figures, I would like to think that we would be able to say that we had been into every community hospital at least a minimum of once every three years, and additionally. I do not think that we do that at the moment; I think we are probably on about one in five. I would like to be able to say that we are going into every acute hospital every year and more than that for the bigger ones; I do not think we do that at the moment…I would probably say that it is about one in three…We are quite a way off."[54]

49. Primary care is one area in which HIW acknowledged it has not done a great deal of work. HIW witnesses explained that a programme of reviews of GP practices is to be rolled out during 2014-15. They made the point that capacity devoted to this will be taken away from other inspection activity.[55]

50. The Chief Executive of HIW told the Committee during its evidence session on 7 November 2013 that it intends to publish its delivery plan for 2014-15, early in 2014. The Chief Executive gave her view that that would be a good point to have a conversation about what is the proportionate and appropriate level of inspection by HIW in the context of Wales.

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[51] RoP, 7 November 2013, p.16, para. 115
[52] RoP, 7 November 2013, p.12, para. 77
[53] Ibid
[54] RoP, 7 November 2013, p.21, para. 155
[55] RoP, 7 November 2013, p.26, para. 202

Our view

51. The Committee would like assurances that capacity will be made available for HIW to undertake more quality and safety-driven inspection work, building on the strengths of the current inspection programme by HIW, specifically unannounced spot checks. The Committee believes this approach provides a valuable way of holding organisations to account for the patient services they provide, and should be built upon to cover a wider range of healthcare settings.

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.

Information sharing

52. HIW told the Committee that "the closeness of working together" is a strength of the arrangements in Wales, specifically the sharing of intelligence and information through healthcare summits.[56]

53. When asked for clarity about the kind of intelligence gathered, the HIW witnesses explained that the organisation uses a wide range of information from other bodies, such as incident reports, information on complaints made about health services, and work being done by others to consider its own work and any action it will take. HIW witnesses explained they have regular meetings with the Welsh Government as part of its performance monitoring. However, HIW confirmed that reports from external bodies, such as Community Health Councils (CHCs) or Local Health Boards (LHBs), are not formally reported to the Inspectorate.

54. Members were concerned to hear that HIW can only access complaints and other information as they become publicly available. When asked whether health boards formally report to HIW quarterly on complaints received, or on their risk registers in relation to staffing or other risk factors,

[56] In recent years Healthcare Inspectorate Wales has facilitated a programme of annual Healthcare Summits involving health and social care review bodies and improvement agencies working across Wales.

HIW's Deputy Director of Service Reviews and Organisational Development, Alyson Thomas, answered:

> "No, they do not formally report to us, but we have access to that information as it is publicly available. So, we pull out that information and look at it ourselves. They do not formally report that information to us."[57]

55. The Chief Executive of HIW acknowledged that improvements are needed to the way intelligence and information is shared, stating that "let us be totally honest, some of the information is coming to us too late in the process".[58]

56. The Wales Concordat[59] is a voluntary agreement between inspection, external review and improvement bodies working in health and social care in Wales. The Board of CHCs told the Committee that the concordat has failed and that there is no uniform communication between the various CHCs in Wales and HIW.[60] During the oral evidence session on 17 October 2013, Members were told that relatively few CHCs – currently three – proactively share intelligence and information with HIW about concerns they may have. The Acting Director of the Board of CHCs, Cathy O'Sullivan, told the Committee:

> "I think that what we do not do well, and we should do better, is actually work together. CHCs have the ability to act with immediacy. If we receive a significant concern around poor quality delivery, we can get teams out almost immediately across Wales. Within two hours we can have a team on the ward. HIW cannot respond in that way, but it needs to utilise us to support and augment the work that it is doing. There are many options here for future delivery and joint working. I do not think that we compete with each other; I think we should complement each other. Greater progress needs to be made to do just that."[61]

57. The Chief Executive of HIW made the point that even if CHCs are not sending reports on to HIW on a routine basis, "they are part of the process

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[57] RoP, 7 November 2013, p.11 para. 65
[58] RoP, 7 November 2013, p.12, para. 72
[59] www.walesconcordat.org.uk/
[60] RoP, 17 October 2013, p.32, paras. 232-239
[61] RoP, 17 October 2013, p.31, para. 226

and they are sat around the table",[62] making specific reference to the healthcare summits led by HIW.

58. However, the Chief Executive of Aneurin Bevan University Health Board, Andrew Goodall, made the point that the respective roles of HIW and the CHCs need greater clarity:

> "This is potentially where we have different parts of our system that can run into each other, but, for me, it is probably more about being clear about how they can complement each other, because they bring different perspectives to the table. Certainly, in the areas of unannounced visits, both have roles to turn up on our different sites and services and to form their own views and assessments about what they see. From a HIW perspective, it is not that it is just overly random, but HIW can simply choose anywhere that it wishes to go to. The Community Health Council will tend to have a lot more contact with us on a more frequent basis, and it will have other data and intelligence that it can share with HIW, perhaps about areas of concern that it has explored, and it is doing a far more frequent set of announced visits. So, as I said, it is probably a real advantage for Healthcare Inspectorate Wales to draw in the CHCs, to some extent, while still protecting the independent role of Community Health Councils."[63]

59. Carol Shillabeer, Nurse Director of Powys Teaching Health Board, added:

> "The other big issue for me around the CHCs is the wealth of general knowledge and intelligence around the healthcare settings and whether HIW could maximise that through much closer working. One of the things that I have observed over the years is the capacity of HIW to engage with the public who are using the services to get a sense of what some of the issues are so that, when they are visiting and undertaking their field work, they can be a bit more targeted around that. So there is some real scope around coming together."[64]

60. The Minister for Health and Social Services expressed his concern that HIW did not have a better relationship with CHCs, stating his intention to set up a new national board and operating regulations for CHCs, which he would bring before the Assembly.[65] The Minister stated that he wanted a

[62] RoP, 7 November 2013, p.8, para. 43
[63] RoP, 17 October 2013, p.18, para. 118
[64] RoP, 17 October 2013, p.18, para. 120
[65] RoP, 7 November 2013, p.46, para. 383

regularised sense of what CHCs do and what HIW does to avoid the sort of example described by Carol Shillabeer in her evidence:

> "**Ms Shillabeer:** I can give you a practical example, where the CHCs have done unannounced visits in my patch in Powys and the following day HIW have been there, and, almost the week before, I was doing my visit. So, there is something in trying to co-ordinate the unannounced visits. I think the CHC has quite a lot to offer in this regard."[66]

Our view

61. Despite some recent improvements to the publication of hospital data,[67] relatively little information about patient safety and quality of services is publicly available in a digestible form. As such, the Committee is concerned to hear that HIW does not routinely receive information from LHBs, CHCs and other bodies about patient concerns and complaints. We believe that responsibility resides as much with the LHBs and CHCs to provide this information as it does with HIW to collect it. Moreover, the Committee expects CHCs in Wales to be more proactive in providing information to support HIW's work and believes that further clarification of the role of CHCs in this regard is needed. We therefore welcome the Minister's commitment to introduce a new set of operating regulations for CHCs, to provide clarity on the roles of CHCs and HIW.

Key issue 2 – Better use of information

It is the Committee's view that:

- **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.**
- **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.**
- **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,**

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[66] RoP, 17 October 2013, p.18, para. 120
[67] Welsh Government written statement, *Launch of My Local Health Service website,* 13 September 2013 http://mylocalhealthservice.wales.gov.uk/#/en

ensure that inspections are better co-ordinated, and enable HIW to focus activity on the areas where the risks are highest.

Publication and timeliness of inspection reports

62. HIW's role is to monitor, inspect and regulate services to make sure they meet fundamental standards of quality and safety and to publish reports of their findings, including publishing details of where there may be systemic failures in services.

63. Following an inspection, healthcare organisations are required to complete an action plan to address the key issues highlighted and submit this to HIW within two weeks of the report being published. The action plan should clearly state when and how the issues identified by HIW have been addressed. This action plan should then be published on HIW's website and monitored as part of HIW's regular monitoring process. Following an inspection, HIW requires the healthcare body to undertake an internal audit in order to seek assurances that the issues raised have been addressed and report the outcome of this review to HIW.

64. The HIW website[68] lists all the inspection reports that are publicly available. It was acknowledged by most witnesses that the website currently has very little information which is easy for the public to navigate online. The poor accessibility of information was identified as 'problematic' by several witnesses who made the point that it is difficult to assess the effectiveness of HIW, particularly its ability to detect and tackle poor care amongst healthcare providers, when there is little information publicly available about the regulatory action it has taken.

65. Members of the Committee raised concerns that it is not always clear what follow up action has been taken by HIW when it has identified concerns in a healthcare setting. The Committee heard evidence that work is carried out by HIW but there is little or no evidence of follow up on the part of HIW to ensure that LHBs have amended their policy, behaviour and practice. However, Carol Shillabeer, Nurse Director at Powys Teaching Health Board, clarified that:

> "In part, HIW does follow-ups. Where I have seen evidence of follow-ups has been where there have been thematic reviews, such as the management of diarrhoea and vomiting, for example, CAMHS services, or youth justice, where there has been a collaboration with

[68] www.hiw.org.uk/page.cfm?orgId=477&pid=33035

other inspectors and regulators, and a thematic national report has been published. There will be a follow-up to that, and that is very helpful and demonstrates progress or otherwise. Where I think that there has been a lack of follow-up has been where there is an individual inspection. What has been clear to us as a health board is that it is our responsibility to implement the action plans and to demonstrate that we have done so. HIW does not appear, whether it is its role or not, to have been able to come back to us to check on all of those. However, it would be wrong to say that it does not follow up on other, core pieces of thematic work."[69]

66. Several witnesses made the point that timescales for the production of inspection reports are unacceptably long, sometimes taking one or two years for reports to be published. The Chief Executive of Aneurin Bevan University Health Board stated:

> "We find a number of examples where things come out immediately, but I know that there have been some frustrations that the report on an unannounced visit has been received much later, sometimes as much as 12 months later, when we have addressed the area and moved on, but then the awareness is out there in the community, which can, of course, cause some concerns. So, I think it comes back to my earlier point, which was to ask whether, as HIW has adopted a series of other functions and roles, we have also allowed it to grow its capacity to be able to deal with this and to respond. I want to have an immediate response, because that is the pace and urgency of the environment that we are in, but we also need to be able to facilitate that through its functions."[70]

67. When questioned, the Minister for Health and Social Services recognised that HIW is taking too long to publish its review findings.[71]

68. Several witnesses stated that there is a lack of accountability to the general public because HIW does not publish sufficient, timely information.[72] HIW explained that capacity constraints mean that it has prioritised inspection visits over providing public information but recognised the need to be more open and transparent in reporting its inspection activity and

[69] RoP, 17 October 2013, p.21, para. 140
[70] RoP, 17 October 2013, p.19, para. 127
[71] RoP, 7 November 2013, p.49, para. 399
[72] RoP, 17 October 2013, p.37, para. 290

findings. Specifically, HIW witnesses recognised that the Inspectorate needs to do more to ensure that action plans and follow up work are more visible.[73]

69. The Minister for Health and Social Services agreed with HIW that its website was "not up to the job",[74] and that it is very difficult to find reports on specific areas and information on exactly what has been done. He went on to acknowledge that:

> "…HIW is part of the public assurance system that we have for the health service in Wales. I agree that it needs to provide information on the work that it does in a way that the public, where the public has an interest in doing so, is able to see how it has gone about its duties, can see what work it has undertaken, can see what judgments it has reached about services, and so on."[75]

70. There was a broad consensus among witnesses that two key issues exist in relation to the availability of public information. Locating the information in the first instance can be very challenging. Second, if the information is found, it can be difficult to establish what exactly it tells the public about the quality of services.[76]

Our view

71. The Committee believes that HIW should improve the quality monitoring of its registration and inspection process, in terms of timeliness, consistency and transparency. The Committee believes that the public needs to have confidence that when HIW has undertaken an inspection, and when it has made recommendations and required organisations to do things, it is able to go back to make sure that those things have happened. Furthermore, when activity is undertaken, information should be made publically available in a timely and transparent way.

72. The Committee agrees with the Minister that "partly because HIW has not been reporting on everything it does in a timely way, and partly because it has been stretched to do other things, it appears not always possible to be sure that HIW does not just inspect and walk away."[77]

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[73] RoP, 7 November 2013, p.21, para. 161
[74] RoP, 7 November 2013, p.20, para. 151
[75] RoP, 7 November 2013, p.37, para. 300
[76] Patients Association written evidence
[77] RoP, 7 November 2013, p.42, para. 339

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:

- **publish its inspection reports in a timely fashion;**
- **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**
- **transform its website so that it is a user-friendly, transparent and comprehensive information portal which reflects the reports it has produced and the work it has undertaken.**

External reviewers

73. HIW sets out a three-year programme that is revised and updated as circumstances and priorities change. Central to the delivery of the programme is the use of a pool of approximately 200 external reviewers – health and social care professionals and members of the public – to support the delivery of its programme.

74. In its written evidence to the Committee, CSSIW notes that "this model delivers up to date expertise from the front line to the inspection team and, through the three-year programme, gives a sense of direction beyond one business year".[78] However, CSSIW told the Committee that this approach raises some challenges, stating that the dependency on external reviewers can, at times, mean that the core team at HIW can appear short of knowledge and experience of health and social care. This view was shared by the Welsh Independent Healthcare Association (WIHA), whose written evidence suggests that HIW is currently too dependent on external reviewers.[79]

75. HIW witnesses disagreed, stating that the mix of HIW inspectors, lay reviewers and specialist peer reviewers helps to ensure that the interests of

[78] CSSIW written evidence, para. 12
[79] WIHA written evidence, para. 3.5

patients are reflected and that the findings of the review have professional credibility.[80] HIW witnesses went on to say that the organisation has been particularly effective in maximising the impact of its capability and capacity in this way, stating that peer and lay reviewers bring a range of discrete skills, knowledge and experience to HIW review teams. This view was supported by Carol Shillabeer, Nurse Director at Powys Teaching Health Board, who stated:

> "…the very nature of healthcare is extremely broad and there are a number of specialities. It is not reasonable to expect any employed reviewer within HIW to have a really comprehensive knowledge of all of the areas of practice, hence the need to bring in expert reviewers. I am sure that there is an important point in there about getting that balance right and ensuring that you are not overly dependent on recruiting external people."[81]

Our view

76. The Committee recognises the important and valuable contribution of peer and lay reviewers in helping HIW to undertake its direct inspection work, especially the need to access a broader range of specialist clinical expertise as its functions have expanded, as well as the importance of incorporating the user perspective in its work. However, we believe that HIW still needs to retain a central core of staff with appropriate skills and experience to direct and manage an increasingly challenging programme of work.

Key issue 4 – Building a high performing organisation

In 2011, HIW undertook a review of the services provided by its external reviewers. 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. HIW should make public its approach to the appointment and use of external reviewers and identify clearly its future needs.

[80] RoP, 7 November 2013, p.23, para. 170
[81] RoP, 17 October 2013, p.23, para. 156

Inspection methods – self assessment

77. The Welsh Government issued *Doing Well, Doing Better: Standards for Health Services in Wales*, which came into force on 1 April 2010.[82] This document provides a consistent framework that enables health services to look across the range of their services in an integrated way to ensure that all that they do is of the highest quality. Clinical elements of the standards are underpinned by National Institute for Health and Care Excellence (NICE) guidance and standards issued by health professional bodies (e.g. the General Medical Council and the Nursing and Midwifery Council).

78. In its response to the Francis Inquiry, the Welsh Government makes reference to plans to create a refreshed framework for the standards for health services. In evidence to our inquiry, the WAO argued that this offers the opportunity to consider and clarify the role that HIW should play in ensuring compliance with the standards, working with other external review bodies as appropriate.[83]

79. HIW uses the existing standards to underpin its inspection and regulatory work and HIW's work programme includes a commitment to undertake annual testing and validation of healthcare organisations' adoption of the standards. HIW is required to validate the self-assessment carried out by health bodies. Healthcare organisations are required to self-assess their own performance more effectively and further strengthen their internal scrutiny. The Chief Executive of Aneurin Bevan University Health Board explained:

> "On the self-assessment role generally, I think that there are positives about the self-assessment mechanism, as in allowing us to take responsibility for our own areas. However, it has to be part of a clear understanding about where any regulator is going to step in, that, where they have a concern on any aspect of the self-assessment, they are able to come and explore it, and actually seek the evidence base. I think that, thirdly, any self-assessment that is done by an organisation needs to be triangulated with other sources of data[…] perhaps drawing in other sources of intelligence, as I said earlier, such as the Community Health Council, or the Commissioner for Older People in Wales, where it would seem that there are other sources of information at this stage. I am an advocate of self-

[82] Welsh Government, *Doing Well, Doing Better: Standards for Health Services in Wales,* April 2010
[83] WAO written evidence, para. 15

assessments, but, if they are just left as a self-assessment process on their own terms, they can be a danger to any organisation as they can lead to complacency in the worst situations, and you need that external perspective to be brought."[84]

80. HIW witnesses confirmed their intention to continue to move towards the encouragement of self-assessment by healthcare organisations as a way of embedding the standards into those organisations, specifically through the development of 'service specific modules' in areas such as end of life care, cancer services and mental health services.[85] However, the WAO witnesses made the point that limited progress has been made with this work, stating that:

> "HIW had correctly decided to move away from a heavy validation-based process of all of the standards to developing modules that support self-assessments by the health bodies. I think that that is widely perceived as a good thing to do; it encourages health bodies to build that into their everyday working. However, there still needs to be some validation. So, there are two things that we have to say about that. First, some of the self-assessment and module work that HIW said that it was going to do has not, perhaps, been done within the timescales that it said that it would do it – it is a little slower than it said that it would be – which links back to capacity, as we probably said earlier. The second thing is the clarity about how that would work. So, if HIW gives a service a module against which to self-assess itself, what external validation would be done to ensure that that self-assessment was robust and to give assurance that the health body had done a full, thorough and robust job? I think that we are still waiting to see whether that will work in practice. So, it is still to be seen."[86]

81. On self-assessment and the healthcare standards, LHB representatives also made the point that the focus of HIW has become more targeted in recent years, stating:

> "Some of the focus on HIW has become targeted…I would welcome a broader outlook, taking account of the healthcare standards, which allows us to facilitate the healthcare standards."[87]

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[84] RoP, 17 October 2013, p.23, para. 151
[85] RoP, 7 November 2013, p.15, para. 97
[86] RoP, 17 October 2013, p.7, para. 27
[87] RoP, 17 October 2013, p.24, para. 166

82. Carol Shillabeer, Nurse Director, at Powys Teaching Health Board added:

> "A general comment around the model for operating, and this is probably reflective of a capacity issue, is that, in the old days, we would have had an organisation-wide inspection picking up, or joining all the dots, of the issues of concern and laying them in front of us. It has, over the last few years, become pretty targeted, and this relates [to the earlier question] about core functions and whether HIW has been stretched too far to enable it to join those dots up, or whether the joining of dots should take place with other regulators and other bodies that also have a role in reviewing our work."[88]

83. She also stated:

> "My only [other] comment on that is about ensuring that there is a balance between being proactive and reactive. The healthcare standards provide the ideal opportunity for being very proactive and testing. The current work that HIW has been doing has tended to be more reactive. Again, I feel that it is a capacity constraint issue and about its need to fulfil multiple functions. So, I am pretty sure that there is more to be done around the self-assessment and the broader base of work."[89]

84. HIW witnesses gave their view that only around 50 per cent of the healthcare organisations currently involved in self-assessment appear to be properly engaged in the process.[90]

Our view

85. The Committee supports HIW's decision to allow LHBs to use a robust self-assessment process as part of the assurance and inspection framework. However, we believe that HIW needs to make speedy progress with the publication and implementation of its service specific modules for self-assessment and needs to demonstrate that any revised inspection methods retain or improve confidence in the system.

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

[88] RoP, 17 October 2013, p.23, para. 154
[89] RoP, 17 October 2013, p.25, para. 167
[90] RoP, 7 November 2013, p. 15, para. 101

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.

Changes in the way healthcare is provided

86. In their evidence to the Committee, both CSSIW and the WAO made reference to examples of good practice in joint working between the external review bodies, but both also raised concerns about the future challenges facing HIW. In particular, both organisations raised concerns about HIW's capacity and ability to work collaboratively.

87. In its oral evidence to the Committee on 17 October 2013, CSSIW made the point that "there needs to be some real focus now on the strategic plan for regulation and inspection of health and social care in Wales in terms of the kind of regulation you want and how it is going to be carried out."[91]

88. The example of adult care homes with nursing was referred to by several witnesses as one where there should be closer working relationships between the health and social care inspectorates. CSSIW stated that HIW is not involved in unannounced spot-check inspections of care homes with nursing provision, explaining that CSSIW has multidisciplinary teams which include registered nurses who are used to inspecting and evaluating nursing care.[92]

89. CSSIW also provided examples of three areas of work in which they say HIW has found it difficult to participate: reablement services in which health and social services need to work closely together; strategic commissioning across health and social care; and delivery of effective joint services in adult social services. CSSIW stated that this relates to the lack of time available for joint work given the demands on HIW to deliver its own programme of routine evaluative work. However, CSSIW went on to highlight that, in future, there will be more integrated services, and advocated what it referred to as a 'rights and duties' approach to inspection.[93]

[91] RoP, 17 October 2013, p. 5, para. 15
[92] RoP, 17 October 2013, p. 8, para. 41
[93] RoP, 17 October 2013, p. 10, para. 58

90. The Committee was told that HIW faces a number of challenges in relation to the inspection of integrated care services, including how it agrees a work programme with CSSIW in the future, and in relation to agreeing a process for inspection of integrated health and social care that happens outside usual care settings. During the oral evidence session on 17 October 2013, witnesses highlighted the importance of avoiding a situation where this new element of care falls in the gap between CSSIW and HIW.[94]

91. In its written evidence, HIW makes the case for the existence of a dedicated healthcare inspectorate. It states that, while there will inevitably be interfaces with the responsibilities of other review bodies, "effective collaboration can overcome most of these challenges".[95]

92. The Minister for Health and Social Services made clear that he remains convinced of the need to have a separate, standalone health inspectorate, stating that there is too much work beyond the integration agenda that requires a specific health inspectorate.[96] However, the Minister also emphasised the importance of HIW moving towards a greater focus on community, primary and integrated services. The Minister stated that he is confident that the different inspectorates are capable of coming together effectively to undertake joint work on integrated care, acknowledging that "the pattern of inspection in Wales needs to match the changing pattern of service here".[97]

Our view

93. To date HIW's focus has been predominantly on acute healthcare settings. We believe that, with the move to more integrated, community based care, HIW will need to give greater consideration – alongside colleagues in other relevant bodies – to the impact this will have on its approach to regulation and inspection. Furthermore, while we accept the role of LHBs in ensuring that the quality and safety of primary care – including general practice – is inspected, we believe that changes to the way healthcare services are provided mean that further consideration of the role of HIW in this field is required.

[94] RoP, 17 October 2013, p. 5, para. 15
[95] HIW written evidence
[96] RoP, 7 November 2013, p. 47, para. 387
[97] RoP, 7 November 2013, p. 47, para. 385

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

Annex A – Witnesses

The following witnesses provided oral evidence to the Committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed in full at: www.senedd.assemblywales.org/mgIssueHistoryHome.aspx?IId=1309

17 October 2013

Imelda Richardson	Care and Social Services Inspectorate Wales
Huw Vaughan Thomas	Auditor General for Wales
Dave Thomas	Wales Audit Office
Cathy O'Sullivan	Board of Community Health Councils in Wales
Katherine Murphy	Patients Association
Andrew Goodall	Aneurin Bevan University Health Board
Carol Shillabeer	Powys Teaching Health Board
Nicola Amery	Welsh Independent Healthcare Association
Steve Bartley	Ludlow Street
Karen Healey	Vale Healthcare

7 November 2013

Kate Chamberlain	Healthcare Inspectorate Wales
Mandy Collins	Healthcare Inspectorate Wales
Alyson Thomas	Healthcare Inspectorate Wales
Mark Drakeford	Minister for Health and Social Services
Grant Duncan	Directorate for Public Health, Welsh Government
Janet Davies	Specialist Advisor, Quality & Patient Safety, Welsh Government

Annex B – Written evidence

The following people and organisations provided written evidence to the Committee. All written evidence can be viewed in full at: www.senedd.assemblywales.org/mgIssueHistoryHome.aspx?IId=7373&Opt=0

Organisation	*Reference*
Minister for Health and Social Services	HSC(4)-31-13 - Paper 3
A Dignified Revolution	HIW 01
Mental Health Act Department at ABMU Health Board	HIW 02
Hywel Dda Health Board	HIW 03
Royal Pharmaceutical Society	HIW 04
The British Dental Association	HIW 05
Care and Social Services Inspectorate Wales	HIW 06
Betsi Cadwalader University Health Board	HIW 07
Hafal	HIW 08
Royal College of Paediatrics and Child Health	HIW 09
Royal College of Physicians (Wales)	HIW 10
Inspection Wales	HIW 11
Nuffield Health	HIW 12
Royal College of Anaesthetist's Wales Advisory Board	HIW 13
Older People's Commissioner for Wales	HIW 14
Royal College of Nursing	HIW 15
Genetic Alliance UK	HIW 16
Health and Safety Executive	HIW 17
Public Services Ombudsman	HIW 18
Alzheimer's Society	HIW 19
Wales Audit Office	HIW 20
BMA Cymru / Wales	HIW 21
Healthcare Inspectorate Wales	HIW 22
Patients Association	HIW 23
Powys Teaching Health Board	HIW 24

HM Inspectorate of Probation	HIW 25
General Medical Council	HIW 26
Aneurin Bevan University Health Board	HIW 27
The Welsh Independent Healthcare Association	HIW 28
Heads of Midwifery Education in Wales	HIW 29
Board of Community Health Councils in Wales	HIW 30
Cardiff and Vale University Health Board	HIW 31