

Emergency Response Planning – Industrial Action

Final Internal Audit Report

June 2024

Hywel Dda University Health Board



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Audit and Assurance Services conform with all Public Sector Internal Audit Standards as validated through the external quality assessment undertaken by the Chartered Institute of Public Finance & Accountancy in April 2023.

Acknowledgement:

NHS Wales Audit and Assurance Services would like to acknowledge the time and co-operation given by management and staff during the course of this review.

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Executive Summary

Purpose

The purpose of this audit was to review, assess and provide assurance over the arrangements in place for emergency response planning in relation to industrial action.

Overview

Detailed workforce service plans were produced during the periods of industrial action including the daily reporting of to the Welsh Government, whilst current business continuity plans require services and departments to identify their resilience to staff shortages.

Governance arrangements had been established in the lead up and during periods of industrial action through the Industrial Action Planning Group (IAPG), with the upscaling of established groups and team meetings during the days of industrial action to a Command and Control structure.

However, the command groups appear to be operating in line prior with their establish group and team meeting arrangements due to the lack of dedicated TORs. In addition, limited guidance on the establishment of a Command and Control structure for potential business continuity issues was evidenced in any Health Board documents.

Whilst updates and reports were submitted to some executive directors and groups/ committees, we noted non-compliance with the formal reporting arrangements outlined in the IAPG TOR. The IAPG terms of reference also requires updating and approval.

We have issued **Reasonable** assurance on this area.

Further matters arising concerning the areas for refinement and further development have also been noted (see Appendix A).

Report Opinion

		Trend
	Some matters require management attention in control design or compliance.	N/A
	Low to moderate impact on residual risk exposure until resolved.	

Assurance summary¹

Objectives	Assurance
1 Governance and reporting arrangements are established to tackle industrial actions, including decision-making process	Reasonable
2 Service continuity arrangements impacting workforce (clinical and operational) arrangements are identified	Substantial

¹The objectives and associated assurance ratings are not necessarily given equal weighting when formulating the overall audit opinion.

Key Matters Arising

	Objective	Control Design or Operation	Recommendation Priority
1	Industrial Action Planning Group	Design	Medium
2	Command and Control Arrangements	Operation	Medium
3	Frequency of Reporting	Operation	Medium

1. Introduction

- 1.1 NHS organisations and providers of NHS funded care must take reasonable steps to ensure that in the event of a service interruption, essential services will be maintained and normal services restored as soon as possible.
- 1.2 As a Category 1 responder with key emergency response duties under the *Civil Contingencies Act (2004)*, the Health Board is required to ensure that it has robust plans in place for emergency preparedness, resilience and response.
- 1.3 The inherent risks identified in this review were:
 - the inability to maintain critical services during a business continuity incident leading to service disruption for the Health Board which could impact/affect patient care, jeopardise patient safety and impact delivery of the Health Board's delivery plan, waiting lists (and associated initiatives) and financial position; and
 - financial and reputational damage for the Health Board.
- 1.4 This audit focused on the emergency preparedness and response to the British Medical Association (BMA) industrial action taken during 2024.
- 1.5 This audit initially intended to review the arrangements in place for agreement and processing of payments for staff covering different or additional hours during the period of industrial action.
- 1.6 Since the agreement of the audit brief with management, the Health Board have presented a paper to the Audit and Risk Assurance Committee in May 2024 outlining the issues that resulted in Consultant and SAS Doctors salary overpayments and the subsequent actions to mitigate the inherent risks. As a result, this objective was not covered in this review.

2. Detailed Audit Findings

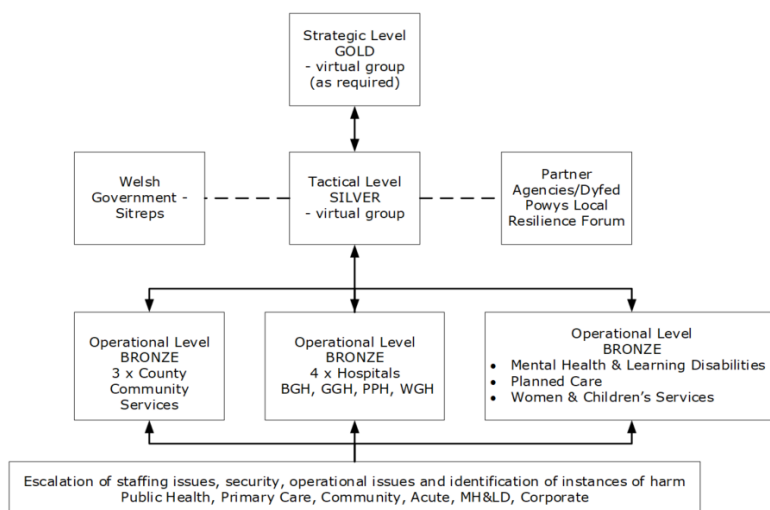
Objective 1: Governance and reporting arrangements are established to tackle industrial actions, including decision-making process

Industrial Action Planning Group

- 2.1 The Industrial Action Planning Group (IAPG) was established in November 2022 with the aim to provide advice and assurance to the Executive Team on planning, development of contingency measures and response arrangements relating to industrial action on an organisational-wide basis.
- 2.2 The IAPG has a terms of reference (TOR) in place that sets out the group’s duties, accountability, responsibilities, membership, quorum, attendance and reporting arrangements.
- 2.3 The IAPG TOR should be reviewed on an annual basis and submitted for approval at the Executive Team. However, the TOR has not been approved by the Executive Team. In addition, the membership list requires updating as a number of identified members, including the Chair, have terminated employment with the Health Board. **[Matter Arising 1]**
- 2.4 Testing confirmed that the IAPG met regularly in line with the frequency set out in the TOR during the period January to April 2024.

Command and Control Structure

- 2.5 The Health Board’s *Major Incident Plan 2023-24* sets out the Command and Control framework to be active during a major incident, including the disruption to services due to industrial action. However, the period of BMA industrial action during 2024 was identified as a business continuity issue rather than a major incident.
- 2.6 Whilst the period of industrial action was not a major incident, the Health Board chose to implement a Command and Control structure. A review of the IAPG decision logs confirmed engagement with the Director of Public Health and Chief Executive Officer to establish the Command and Control structure.



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- 2.7 Established groups and meetings would act up and align to the following Command and Control structure:
- Gold (Strategic) Command – Executive Team
 - Silver (Tactical) Command – IAPG
 - Bronze (Operational) Command – various acute and community groups
- 2.8 An email from the Director of Public Health stated that the Executive Team had been given clear steer from the then Chief Executive Officer that a Command and Control structure would only need to be established if there was a need for strategic direction and/or allocation of resources sitting outside the scheme of delegation.
- 2.9 The Executive Team agreed that a Gold Command would not be needed in this case, with the Silver and Bronze Command groups remaining in place.
- 2.10 The command groups appeared to be operating in line the establish group and team meeting arrangements due to the lack of dedicated TORs. **[Matter Arising 2]**
- 2.11 The current *Major Incident Plan 2023-24* does not outline the key steps required to establishing a Command and Control structure especially for those identified as a business continuity issue. **[Matter Arising 2]**

Risk Register

- 2.12 A review of the corporate risk register confirmed that a risk entry (Risk No. 1548) had been recorded in relation to maintaining routine, urgent and emergency service provisions across the organisation in the event of industrial action.
- 2.13 The corporate risk register is submitted to the Quality, Safety & Experience Committee meetings for management update and scrutiny. We can confirm the risk register entry was regularly updated during 2023-24 to reflect the changes in the BMA's position regarding industrial action.

Internal Reporting Arrangements

- 2.14 The IAPG TOR states:

"9.4 The Group's Chair, supported by the Group Secretary, shall:

(9.4.1) report formally, regularly and on a timely basis to the Executive Team and OPDP¹ on the Group's activities; and

(9.4.2) provide regular updates to the OPDP meeting on plans and response arrangements in relation to industrial action."

¹ The Operational Planning and Delivery Group (ODPG) has been renamed the Operational Planning, Governance and Performance Group

- 2.15 Testing confirmed that formal minutes were recorded by the IAPG and Silver Command group during the periods of industrial action between January and March 2024.
- 2.16 We also noted regular communications via email and Teams channels between key personnel and executive directors during this period.
- 2.17 However, a review of the Executive Team and Operational Planning, Governance and Performance Group (OPGPG) minutes noted that reference to industrial actions was reported twice to the Formal Executive Team meeting in December 2023 and February 2024, and twice to the OPGPG in January and March 2024. **[Matter Arising 3]**

External Reporting Arrangements

- 2.18 The Health Board was required to report daily 'sitrep' reports to the Welsh Government (WG) during the periods of industrial action. The 'sitrep' report is an organisational self-assessment of identified risks and issues at the start of each day of industrial action. In addition, the Health Board was required to complete workforce returns that document the impact of daily industrial action of acute sites and services.
- 2.19 A review confirm that the Health Board had submitted 'sitrep' reports and workforce returns for each day of industrial action for the period of January - March 2024.

Conclusion:

- 2.20 Governance arrangements had been established in preparation of industrial action through the IAPG, with the upscaling of this and other established groups and team meetings during the days of industrial action to a Command and Control structure. However, the command groups appear to be operating in line with the established group and team meeting arrangements due to the lack of dedicated TORs.
- 2.21 The IAPG TOR had not been formally approved, whilst the formal reporting of industrial action updates to the Executive Team and OPGPG, happened at two out of three Formal Executive Team meetings between November 2023 and January 2024. The period of interest (Nov 2023 to Jan 2024) for the Executive Team was dominated by the Annual Planning agenda, hence a few of what would have been Formal Executive Team Meetings were annual planning meetings. Email updates were issued to the Executive Team to account for the Formal Executive Team Meetings. We have concluded **Reasonable** assurance for this objective.

Objective 2: Service continuity arrangements impacting workforce (clinical and operational) arrangements are identified

Business Continuity Plans

- 2.22 The Health Board has a *Business Continuity Planning Policy* in place that was approved by the Health and Safety Committee in July 2022. The policy is available to view on the organisation's intranet page.
- 2.23 The Head of Emergency Planning, Resilience and Preparedness confirmed that no explicit scenario planning exercises needed to be undertaken in the lead up to the BMA industrial actions, as lessons learned had been taken from the previous Royal College of Nursing industrial action in 2023 and implemented into the planning and preparedness of this period of industrial action. This is also due to the inclusion of a 'staff shortages' section (that addresses industrial action) within the Health Board business continuity plan template that requires the service or department to consider their resilience in regard to people and resources.
- 2.24 A review of a sample of business continuity plans confirmed that resilience planning had been completed regarding people and resources.

Workforce Service Plans

- 2.25 To assess the impact of industrial actions on services and departments within health organisations, the WG issued a self-assessment template document that captured information such as the ability to deliver day case and outpatient services, any reductions or rescheduling of elective activity, the provision of cancer services.
- 2.26 Hywel Dda completed and submitted their self-assessments to the WG for the periods of industrial action between January and March 2024 including detailed breakdown of acute hospitals, community, Mental Health and Learning Disabilities services.
- 2.27 To supplement the self-assessment returns, Hywel Dda also provided service plans with breakdowns of the workforce taking part in the industrial action and the impact on clinical rotas during these periods.

Conclusion:

- 2.28 Workforce service plans had been established identifying the impact on clinics and theatre sessions that were also reported through to WG, whilst business continuity plans capture service and departments resilience to staff shortages. We have concluded **Substantial** assurance for this objective.

Appendix A: Management Action Plan

Matter Arising 1: Industrial Action Planning Group (Design)		Impact
The IAPG TOR has not been approved by the Executive Team. In addition, the membership list requires updating as a number of identified members, including the Chair, have terminated employment with the Health Board.		Potential risk of: <ul style="list-style-type: none"> inconsistent/ inefficient arrangements in place.
Recommendation		Priority
1.1	The Industrial Action Planning Group terms of reference should be updated and formally approved by the Executive Team.	Medium
Agreed Management Action		Target Date
1.1	The Terms of Reference were issued to IAPG members on 10 May 2024 for formal review and comments back by 24 May 2024. As the group is not currently meeting, the final version will be re-circulated and signed off by the IAPG electronically. However, at this point in time, there is no further Industrial Action scheduled as negotiations between the BMA/WG continue. Should any future rounds of Industrial Action occur, by any Trade Union, then the Terms of Reference will be revisited at the first meeting of the re-established IAPG, and subsequently signed off by the group.	14 th June 2024
		Responsible Officer
		Head of Emergency Preparedness, Resilience & Response

Matter Arising 2: Command and Control Arrangements (Operation)		Impact	
<p>Command and Control structures are established during periods of major incidents in line with the <i>Major Incident Plan 2023-24</i>.</p> <p>During the period of industrial action, which was identified as a business continuity issue rather than a major incident, a Command and Control structure was implemented through the upscaling of established groups and team meetings.</p> <p>However, no TORs had been drafted or approved for the command groups that differed from the purpose, aims and responsibilities set out in the established groups and team meetings.</p> <p>In addition, the <i>Major Incident Plan 2023-24</i> does not outline the key steps required to establishing a Command and Control structure especially for those identified as a business continuity issue.</p>		<p>Potential risk of:</p> <ul style="list-style-type: none"> command groups not operating in line with Command and Controls structure arrangements. 	
Recommendation		Priority	
2.1	<p>Guidance should be developed to supplement the Major Incident Plan that outlines whether a Command and Control structure is required for business continuity issues.</p> <p>Where a Command and Controls structure is required, a clear and consistent approach should be explicitly outlined including, but not limited to, roles, responsibilities and reporting arrangements within the guidance document.</p>	<p>Medium</p>	
Agreed Management Action		Target Date	Responsible Officer
2.1	<p>Terms of Reference for all command & control group activations drafted for future rounds of IA. Will be applied as necessary.</p> <p>The Executive Team will be notified of any future rounds of Industrial Action and the re-establishment of the IAPG. Command & Control structures will be considered and agreed as appropriate at that time reflecting the circumstances. Reporting structures for internal Command & Control structures to be included in the Major Incident Plan 2024/25.</p>	<p>14th June 2024</p> <p>9th July 2024</p>	<p>Head of Emergency Preparedness, Resilience & Response</p> <p>Head of Emergency Preparedness, Resilience & Response</p>

Matter Arising 3: Frequency of Reporting (Operation)		Impact	
A review of the Executive Team and OPGPG minutes identified the infrequent formal reporting of industrial action updates for the period January to April 2024 in line with the arrangements outlined in the IAPG TOR.		Potential risk of: <ul style="list-style-type: none"> management are unable to address key risks due to poor reporting arrangements. 	
Recommendation		Priority	
3.1	The Industrial Action Planning Group should provide formal reports to the Executive Team and Operational Planning, Governance and Performance Group in line with the arrangements outlined in the terms of reference. Where reporting arrangements differ, this should be accurately reflected in the terms of reference.	Medium	
Agreed Management Action		Target Date	Responsible Officer
3.1	Reporting arrangements to be clarified in the reviewed Terms of Reference.	14 th June 2024	Head of Emergency Preparedness, Resilience & Response

Appendix B: Assurance opinion and action plan risk rating

Audit Assurance Ratings

We define the following levels of assurance that governance, risk management and internal control within the area under review are suitable designed and applied effectively:

	Substantial assurance	Few matters require attention and are compliance or advisory in nature. Low impact on residual risk exposure.
	Reasonable assurance	Some matters require management attention in control design or compliance. Low to moderate impact on residual risk exposure until resolved.
	Limited assurance	More significant matters require management attention. Moderate impact on residual risk exposure until resolved.
	Unsatisfactory assurance	Action is required to address the whole control framework in this area. High impact on residual risk exposure until resolved.
	Assurance not applicable	Given to reviews and support provided to management which form part of the internal audit plan, to which the assurance definitions are not appropriate. These reviews are still relevant to the evidence base upon which the overall opinion is formed.

Prioritisation of Recommendations

We categorise our recommendations according to their level of priority as follows:

Priority level	Explanation	Management action
High	Poor system design OR widespread non-compliance. Significant risk to achievement of a system objective OR evidence present of material loss, error or misstatement.	Immediate*
Medium	Minor weakness in system design OR limited non-compliance. Some risk to achievement of a system objective.	Within one month*
Low	Potential to enhance system design to improve efficiency or effectiveness of controls. Generally issues of good practice for management consideration.	Within three months*

* Unless a more appropriate timescale is identified/agreed at the assignment.



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