Health & Social Care (Quality & Engagement ((Wales) Act 2020: The Health Board Response

Situation

On 1 June 2020, The Health and Social Care (Quality and Engagement) (Wales) Act became law. Welsh Government is now working to bring the Act into force in spring 2023.

The Act will:

- strengthen the existing duty of quality on NHS bodies and extend this to the Welsh Ministers in relation to their health service functions;
- establish an organisational duty of candour on providers of NHS services, requiring them to be open and honest with patients and service users when things go wrong;
- strengthen the voice of citizens, by replacing Community Health Councils with a new all-Wales Citizen Voice Body that will represent the interests of people across health and social care; and
- enable the appointment of Vice Chairs for NHS Trusts, bringing them into line with health boards.

Duty of Quality

Quality is a system-wide way of working to provide safe, effective, person-centred, timely, efficient and equitable health care in the context of a learning culture. The Act:

- places an overarching duty of quality on the Welsh Ministers; and
- reframes and broadens the existing duty on NHS bodies.

The duty is not intended to deliver a particular outcome or to ensure a particular level of service is attained; it will require that, when decisions are made about health services, consideration must be given to whether the decision will improve service quality and secure improvement in outcomes.

The details of how the duty will work in practice will be contained in statutory guidance, which will be developed in partnership with stakeholders, and training will be developed to support implementation.

Duty of Candour

The Act places a duty of candour on providers of NHS services (NHS bodies and primary care) - supporting existing professional duties.

- The duty requires NHS providers to follow a process (as yet to be clarified in guidance) when a service user suffers an adverse outcome which has or could result in unexpected or unintended harm that is more than minimal and the provision of health care was or may have been a factor. There is no element of fault, enabling a focus on learning and improvement, not blame.
- The Act requires NHS providers to report annually about how often the duty has been triggered, a description of the circumstances leading to the event and the steps taken by the provider with view to preventing any further occurrence.

Progress to date

National Steering Board established

National Workstreams established:

Workstream 1: Overarching Guidance & Principles Development- draft developed informal consultation

Workstream 2: Quality Reporting Framework- draft developed but requires further work. 'Always on' reporting approach to be adopted

Workstream 3: Health & Care Standards- limited progress. It expected that this work will be absorbed by workstream 1'

Workstream 4: Communication & Engagement- no chair identified to date- consideration being given to the role of organisational comms v national comms leadership & support

Workstream 5 Education- awaiting output from workstreams

Duty of Candour Group- Agreed level of harm definition & discussion re reporting from primary care. Consultation expected September 2022.

It is possible that the national timescales for consultation and implementation may slip.

Internal HB progress

- Internal Implementation Group established to support readiness
- Duty of Candour as we understand it now being considered & implemented for incidents of severe and catastrophic harm
- Updating expectations re Duty of Candour via concerns investigation training- case examples being utilised
- UHB webpage established Quality and Engagement Act (sharepoint.com)
- Board Seminar session rescheduled for October 2022

Risks and Mitigation

Assessment against Welsh Health Circulate (WHC) undertaken indicates reasonable progress. Actions in place to support points 1,8,9,12,14. Aligned to planning Objectives 3c & 5A

Risk	Mitigation
Lack of Duty of Candour reporting by contractor professions to enable reporting through the agreed annual report mechanism	Local representatives attend and influence the national workstream. National discussion has taken place with Local Medical Committee. The Associate Medical Director for Primary Care is engaged in the internal readiness group to aid local communication of requirements
Lack of detailed information being provided centrally to HBs/Trusts	HB representatives attend national workstream meetings and feed in to the internal implementation group
Capacity to support delivery of training & readiness, especially for contractor professions	Significance of this risk is yet to be identified. It is understood that discussions regarding resourcing are being held.
Unknown resource implication to implement Duty of Candour associated with moderate harm concerns	Liaison between Legal Services, Patient Experience and Quality Assurance teams in place to ensure existing resources are optimally deployed whilst significance of this risk is being considered.

Recommendation

For QSEC to take an assurance that the Health Board is taking steps to respond to the requirements of the Quality & Engagement Act based upon the information available.

To note the potential delay in delivery of the requirements of the Act associated with national consultation and guidance provision.