Arolygiaeth Gofal Iechyd Cymru
Healthcare Inspectorate Wales

Chief Executives and Chairs
NHS Health Boards and Trusts Wales
Via Email

9 November 2021

Dear Chief Executive and Chair

HIW Winter update

As we head into what will be a difficult winter period for healthcare services across Wales I thought it timely for me to provide an update on HIWs approach and activity over the coming months.

Assurance and inspection programme

Our position with regard to our assurance and inspection programme remains unchanged in that it is driven by risk, whilst also seeking to support the response and recovery of healthcare services from the pandemic. Our commitment to keep the situation under review and use the right blend of offsite and onsite assurance work to deliver our role is also unchanged. With a range of indicators showing increased pressure on healthcare services due to COVID-19, broader respiratory conditions and pressure across the system, we will continue to risk assess every piece of work and engage with you where appropriate. Further to this, and in recognition of feedback and reflection on recent inspections, we will now move away from unannounced inspections for 'green' and elective, scheduled pathways. We will provide around 24 hours' notice for these inspections with the intention of ensuring our teams have time to communicate with staff and allow time for arrangements to be put in place for the inspection. I expect this to be the approach for all inspections that fall into this category, however, we must still reserve the right to operate in a fully unannounced way where we determine there to be an extremely high risk to patient safety as a result of the way a service is operating.

I am very aware that difficult decisions will need to be made locally over the course of the winter period given the extraordinary demand and systems context within which healthcare services are operating. We will be careful to ensure that this is clearly understood as part of our assurance work and in our reporting.

As I have previously set out, where we do need to conduct onsite work, we have implemented a number of measures to reduce the risk of COVID 19 transmission from our inspection activity and to ensure that our staff are protected from COVID-19. I would, therefore, expect the presence of

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our inspectors to be treated as essential and similar to that of visiting professionals rather than members of the public.

National reviews

National and local reviews continue to form a key part of our assurance work. You will have seen the completion and publication of our review of Welsh Ambulance Services Trust (WAST): Review of Patient Safety, Privacy, Dignity and Experience whilst Waiting in Ambulances during Delayed Handover. It is clear from our work that a significant number of whole system activities are either planned or underway with a view to addressing improvement in the delivery of urgent and emergency care services. We look forward, however, to receiving a co-ordinated, system response to the specific recommendations falling from our work. We are in contact with Wales' Chief Ambulance Commissioner about the response and will support improvement where possible.

The fieldwork has been completed for our National Review of Mental Health Crisis Prevention in the Community. The report is scheduled for publication in December 2021 and we will engage with you on our findings in the normal way.

We have commenced a National Review of Patient Flow (Stroke Pathway), and are currently finalising the terms of reference. You will have received an invite for a representative from your organisation to join the stakeholder group helping to steer the work. We aim to share findings as part of our series of Quality Insight Bulletins before concluding with a national report published late autumn 2022.

We will publish our Mental Health Act Annual Report 2020-21 on 10th November 2021. Following a significant number of quality checks and inspections, the report covers a number of key areas in relation to general mental health provision and those specific to the administration of the Act.

We recently supported CIW in carrying out a national review of early help, care and support and transition for disabled children in Wales. Working together enabled consideration of how people are being supported seamlessly across both health and social care services. The review identified positive practice, learning points and areas for improvement for consideration by local authorities, local health boards and their partners. The final report is due to be published at the end of November 2021.

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Service of Concern implementation and HIWs future strategy

Your contributions to our work and how we develop as an organisation are much appreciated, particularly at such a busy time. Following a period of consultation we intend to launch our new NHS Service of Concern process on 15 November 2021. We have carefully considered all comments received and made any amendments we felt necessary or appropriate to the process. The updated document is attached.

You will note that the most significant change relates to how a service being managed through the Service of Concern process is described. In externally facing communications and for the purpose of our website, it is our intention to describe any such service as a 'Service Requiring Significant Improvement' rather than a Service of Concern. In addition, our website will include an explanation of the reasons underpinning this determination. We believe that this is a more constructive way to describe services and support any necessary improvement, with Service of Concern being a term reserved for the process rather than the outcome of the process.

Finally, following an initial engagement on HIW's future 3 year strategy we have worked to refine our priorities to ensure we keep pace with changes in healthcare provision and focus on the quality of healthcare provision for people and communities as they access, use and move between services. We will share our priorities with you again before finalising them and publishing our new strategy in March 2022.

I look forward to engaging with you on winter planning and resilience via the Chief Executive Management Team (Peer Group) as recently requested. In the meantime should you wish discuss anything with me directly then please do not hesitate to get in touch.

Yours sincerely

Alun Jones
Interim Chief Executive
Healthcare Inspectorate Wales
Cc.
Stuart Fitzgerald, Interim Deputy Chief Executive
HIW Relationship Managers

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Healthcare Inspectorate Wales

Service of Concern process for NHS Bodies in Wales

November 2021

Introduction

It is our continued commitment and goal at Healthcare Inspectorate Wales (HIW) to check that people in Wales are receiving good quality care, which is provided safely and effectively, in line with recognised standards. Our goal is to encourage improvement in healthcare by doing the right work at the right time in the right place; ensuring what we do is communicated well and makes a difference.

One of the key priorities set out within Healthcare Inspectorate Wales' (HIW) strategic plan is to take action when standards are not met. In line with this priority, and wishing increase transparency about how it discharges its role in providing assurance to the public regarding the quality and safety of healthcare services, HIW has introduced a service of concern process for the NHS.

HIW will use this service of concern process when it identifies significant singular service failures, or cumulative or systemic concerns regarding a service or setting. HIW's escalation and enforcement process for independent healthcare currently utilises such a process.

This process will allow HIW to identify and highlight any '**Service Requiring Significant Improvement**', increasing transparency around how HIW discharges its role, and ensuring that focused and rapid action can be taken by a range of stakeholders, including health boards, to ensure that safe and effective care is being provided.

The service of concern process and subsequent 'Service Requiring Significant Improvement' designation is distinct and separate to the NHS Escalation and Intervention arrangements. However, this process will inform HIW's view and contribution to the discussions on overall status of NHS bodies.

If a 'Service Requiring Significant Improvement' is identified, HIW will communicate this on its website, alongside the reasons for this determination, in addition to any report that relates to an inspection or review of a health board/trust.

Annex A, *Service of Concern process for NHS Bodies* outlines HIW's extant escalation process, and details how a potential service of concern may be identified by HIW, and how this is managed, and de-escalated.

Annex A

Healthcare Inspectorate Wales

Service of Concern process for NHS Bodies in Wales

Version 6.0

Background

Healthcare Inspectorate Wales (HIW) inspects NHS Services under its powers set out within the Health and Social Care (Community Health & Standards) Act 2003 and its associated regulations and standards.

The Health and Care Standards form the cornerstone of the overall quality assurance system within the NHS in Wales. HIW's inspections are based around these standards.

What are HIW's powers in relation to the NHS?

Under sections 72, 73, 74 and 75 of the Health and Social Care (Community Health and Standards) Act 2003, HIW has the following powers in relation to the provision of health care by and for Welsh NHS bodies:

- To inspect, take copies of and remove from the premises any documents or records (including personal records);
- Inspect any other item and remove it from the premises;
- To interview in private any person working at the premises or any person receiving health care there who consents to be interviewed;
- To make any other examination into the state and management of the premises and treatment of persons receiving health care there;
- To be able to require any person holding or accountable for documents or records kept on the premises to produce them;
- In relation to records kept on computer, the power to require the records to be produced in a form in which they are legible and can be taken away;
- To check the operation of any computer and any associated apparatus or material which is or has been in use in connection with the records in question.

HIW also has the power to require any person to provide it with any information, documents, records (including personal records), or other items which relate to the provision of healthcare by or for a Welsh NHS body. This would only be relating to the discharge of any of the functions of a Welsh NHS body and which it considers necessary or expedient to have for the purposes of sections 72, 73, 74 and 75.

Within the Health and Social Care (Community Health and Standards) Act 2003 (Healthcare Inspections) (Wales) Regulations 2005, HIW:

- Can require the persons named below to provide an explanation, in person or in writing, of any documents, records or items inspected, copied or provided under the Act:

    - A Welsh NHS Body;
    - A Chairman, member, director, employee, member of a committee or sub-committee of a Welsh NHS Body;
    - A service provider;

- A Chairman, Director or employee of a service provider;
- A person, other than the ones named above, who is assisting a service provider in the provision of health care for a Welsh NHS Body;
- A person, other than the ones named above, who is assisting, has assisted or is to assist a Welsh NHS Body in the exercise of its functions.

HIW is unable to take enforcement action against NHS services. The NHS Wales Escalation and Intervention Arrangements process sets out how broader concerns regarding NHS services are dealt with.

HIW focuses its inspections and reviews on the quality and safety of service provision, and the experience and outcomes for people using healthcare services. When the service provision or outcomes for people are poor, HIW will take action. This may include issuing improvement notices, escalating concerns to the executive team and board members within a health board/trust, or to the Welsh Government. HIW will also escalate significant concerns about NHS services into the NHS Wales Escalation and Intervention Arrangements, which may impact the overall escalation status of a Welsh NHS Body, or on an individual service provided by a Welsh NHS Body.

How is a 'Service Requiring Significant Improvement' identified?

The *NHS Service of Concern pathway* (appendix 1) illustrates HIW's internal escalation process in relation to NHS services, and how a 'Service Requiring Significant Improvement' may be identified, managed and de-escalated. Each step of the process is detailed below.

Intelligence gathered through HIW inspections, reviews, concerns and notifications, and/or other bodies. HIW may seek to verify any external intelligence.

All information that is collated by HIW will be considered at this initial stage. Information that has not been verified internally by HIW will be corroborated if possible, either through communication or on site work.

Stage 1 - Conduct an Escalation Triage discussion to determine whether further action is required and the level of escalation.

HIW will consider this information and convene an *escalation triage* meeting to determine next steps, and whether further escalation is required. This internal discussion can take numerous forms and can involve different HIW representatives. The aim is to ascertain whether escalation is the most appropriate pathway. This discussion along with any decisions and rationale will be recorded. This may include a discussion with the relevant Relationship Manager around further assurance

activity (follow up) being undertaken and escalation to Stage 2. However, if HIW believes the risks to patient safety are significant enough, the issue may be escalated to a Service of Concern meeting at Stage 3. HIW will draw on relevant expertise in forming this judgement

Stage 2 - Follow up / post follow up activity discussion to determine whether further escalation is required or de escalation

Following the decision from stage 1, HIW may conduct a follow up inspection. This could be in the form of a quality check to gain further information that can be obtained off site, a further onsite focussed or full inspection. This would not necessarily be limited to one piece of work, however, a stage 1 discussion will take place after each piece to determine the most appropriate next step.

How is a 'Service Requiring Significant Improvement' determined?

Stage 3 – Conduct a Service of Concern meeting to determine whether a service meets the threshold of a 'Service Requiring Significant Improvement'

The key element that will determine designation as a 'Service Requiring Significant Improvement' is whether HIW believes there to be a clear and significant risk to patient safety. In determining this, at least one of the threshold questions may be met. The three threshold questions are detailed below;

a) Have Immediate Assurance (IA) and/or Improvement plan recommendations been actioned to an acceptable standard and agreed timescales?

If an IA or improvement plan is issued following an inspection, it indicates that there are serious patient safety concerns about a service. The decision to issue an immediate assurance notice is made in consultation with the inspection manager, the Head of NHS Inspection and a clinical advisor. In addition to evidence gathered, previous judgements about quality and safety of a setting will also be considered.

Following receipt of an IA, a health board/trust is required to submit an immediate improvement plan to demonstrate how they will achieve the improvement. Failure to comply with this process will result in escalation to the Service of Concern pathway.

Following an assurance activity, a health board/trust will be provided with a full improvement plan. This sets out improvements required to meet standards set out in the Health and Social Care (Community Health & Standards) Act 2003. Failure to complete all improvements to an acceptable standard or within the agreed timescale, in particular for matters directly relating to patient safety, may result in escalation to the Service of Concern process.

b) Have the same issues been raised during previous inspection/review activity and insufficient improvements been made?

If HIW continues to find the same or similar issues, either following successive inspections or reviews of a service, or across similar services within a health board/trust, the service may be escalated to the Service of Concern pathway.

If actions taken by the health board/trust have resulted in insufficient improvements, or actions are not having the desired impact, or HIW is not satisfied that there is sufficient learning being demonstrated by a health board/trust following an assurance activity, the service may be escalated to the Service of Concern pathway.

c) Have we received reliable information or gathered evidence to identify a matter requiring urgent action?

If HIW identifies immediate significant risk(s) to patient safety, this may result in immediate escalation to the Service of Concern pathway, in addition to an IA being issued following the conclusion of the assurance activity.

If any of the threshold questions are answered 'yes' and/or there is a risk to patient safety, then the threshold is met for identification as a 'Service Requiring Significant Improvement'. This meeting along with any decisions and rational will be recorded.

How is a 'Service Requiring Significant Improvement' managed?

Once identified, a 'Service Requiring Significant Improvement' will be subject to a higher level of monitoring by HIW. Each service with this designation will be under review by the Escalation and Enforcement team.

HIW will communicate in writing that this determination has been made and will include a summary of our concerns and, if deemed relevant, a copy of any immediate improvement plan or other information. The communication will also include an invite with a date and time to a service meeting. A copy will be sent to the health board/trust, Welsh Government, and any other relevant stakeholders.

HIW will communicate on its website when a 'Service Requiring Significant Improvement' has been identified, with the inclusion of an explanation of why this determination has been reached.

A timescale for improvement will be determined on a case by case basis. This will depend on the level and type of improvement required. Once determined this will be communicated to the service.

Service meetings

Service meetings are an essential step in the Service of Concern pathway. Once a service is designated as a 'Service Requiring Significant Improvement', a service meeting will be convened. The following parties may be invited to attend:

- HIW representative
- Health board/trust representative
- Welsh Government representative
- Any other relevant stakeholder representatives

This meeting is an opportunity for the health board/trust to discuss the concerns raised directly with HIW and other parties at the meeting. It is an opportunity to provide any mitigation and assurance along with details of how the service intends to deal with the improvements and issues identified. Potential outcomes from the meeting are listed below:

- Resolution of the outstanding improvements / agreement that sufficient improvement has been made or is taking place
- Agreement of further actions and timeframes to provide assurance to HIW
- Schedule further assurance activity (announced/unannounced)

A summary of this meeting will be captured in writing and a letter issued to each attending party outlining what was discussed and the resulting actions. The health board/trust will have the opportunity to advise HIW of any factual inaccuracies or corrections they wish to be considered. These should be received within 10 working days. It is the health board/trust's responsibility to ensure that action is taken and that required improvements are achieved. There may also be further assurance activity carried out by HIW, the outcome of which will be communicated to the interested parties through the same process.

Further service meetings will be convened, as appropriate, until HIW is satisfied that improvements have been made and the risk to patient safety is reduced. Continuous failure to provide assurance, or engage with the HIW Service of Concern process may result in further escalation through the NHS Wales Escalation and Intervention Arrangements.

How is a 'Service Requiring Significant Improvement' de-escalated?

A 'Service Requiring Significant Improvement' will be de-escalated once HIW is satisfied with the actions taken by the health board/trust to address required improvements. It may be necessary to convene further service meetings and conduct further assurance activity before HIW is satisfied that improvements have been made and the risk to patient safety is reduced.

Following any assurance activity, a service of concern meeting will be convened to discuss outcomes and determine whether HIW's position on the service has altered.

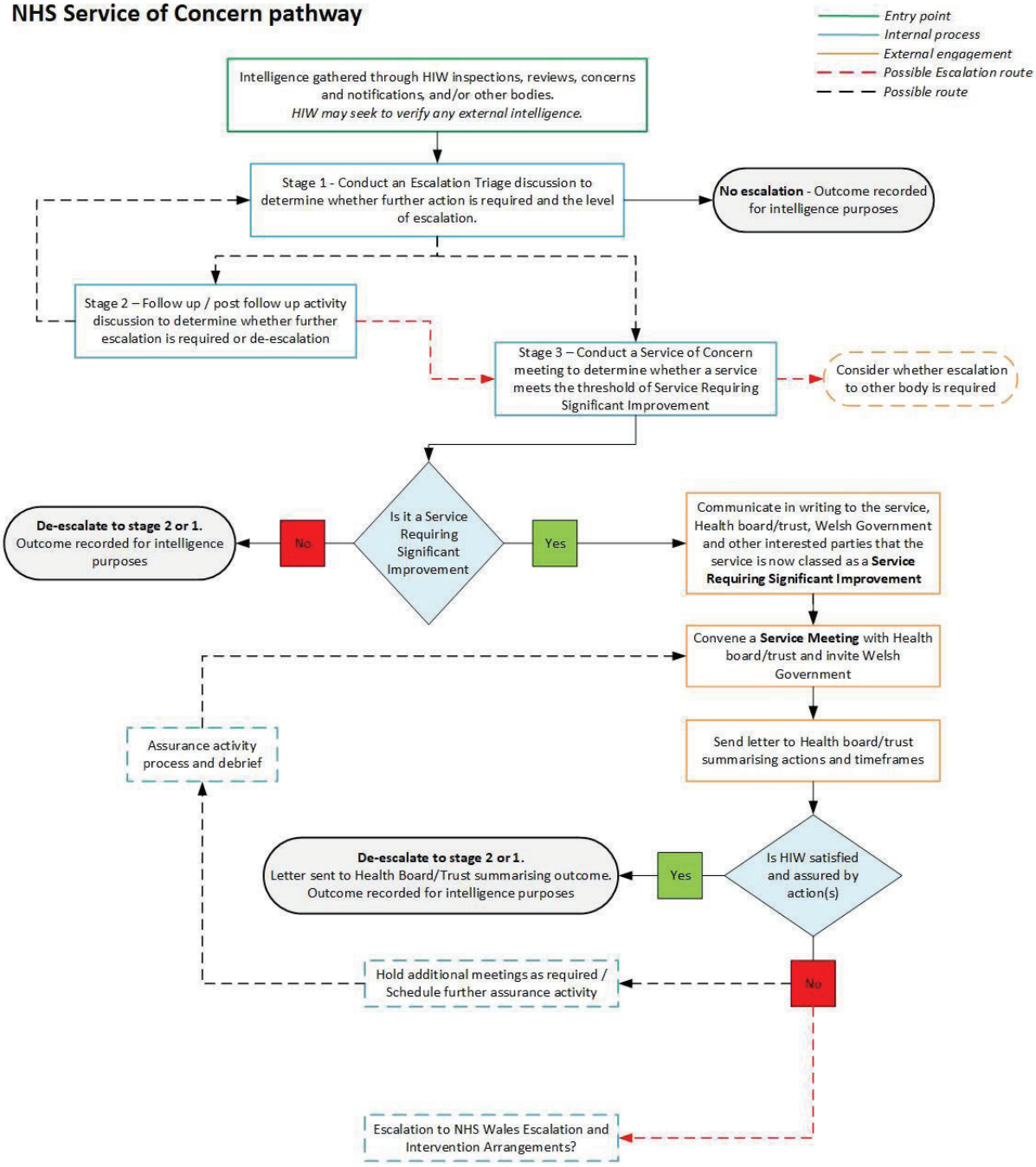
When HIW is satisfied with the actions of a service and decides to de-escalate the service, this will be communicated in writing to the relevant health board/trust, to Welsh Government, and any other relevant stakeholder(s). HIW's website will also be updated to reflect that the relevant service is no longer a 'Service Requiring Significant Improvement'.

Monitoring and Governance

HIW's Escalation and Enforcement team are responsible for monitoring services that are in this pathway. Each 'Service Requiring Significant Improvement' will be reviewed on a regular basis.

The 'Service Requiring Significant Improvement' status will form part of HIW's evidence to the NHS Escalation and Intervention Agreement process, and may therefore influence the outcome of that process.

Sharing Learning

HIW's intention, in introducing this process, is to support improvement and learning, both for the service in question, and across NHS services more broadly. This process will ensure that focused and rapid action can be taken by a range of stakeholders, including health boards, to ensure that safe and effective care is being provided. We will continue to utilise methods for sharing learning across services, including the consideration of timely reporting mechanisms as appropriate.

NHS Service of Concern pathway