

Health and Social Care Committee  
 Welsh Government  
 Via Email

15 July 2021

Dear Health and Social Care Committee

### Healthcare Inspectorate Wales (HIW) – Service of Concern process for NHS

It is our continued commitment and goal at HIW to check that people in Wales are receiving good quality care, which is provided safely and effectively, in line with recognised standards. One of the key priorities set out in our [strategic plan](#) is to take action when standards are not met. In line with this priority, we plan to formalise the process that we use when we determine there to be significant, persistent and/or systemic failures in NHS services.

In our [Strategy and Operational Plan for 2021-22](#) we have highlighted our intention to implement a Service of Concern process relating to our NHS assurance activities, aligned with the approach we use in the independent healthcare sector. We believe the introduction of a Service of Concern designation will increase transparency around how HIW discharges its role and 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.

HIW currently follows an internal escalation process when an issue of significant concern comes to our attention. Enclosed with my letter is a document outlining this process, alongside further detail regarding how HIW's current escalation pathway may inform any decision regarding the Service of Concern status.

The Service of Concern designation will be distinct and separate from the NHS Wales Escalation and Intervention arrangements. However, this process will inform HIW's view and contribution to the discussions on overall status of NHS bodies.

I am contacting you to offer an opportunity to raise any questions or comments about this. It is HIW's intention to seek feedback on this proposal until 30 September 2021 in the hope that this will provide enough time for you to share any views you have with us. It is HIW's intention that the Service of Concern process for the NHS will be implemented during Autumn 2021.

Alternatively, should you wish to meet with us to discuss this proposal, I would be grateful if you could contact [REDACTED] in order to make arrangements for this meeting.

I hope that this will provide greater clarity to you regarding HIW's approach to escalation in the NHS. In the meantime, should you have any questions, Rhys Jones, Head of Escalation and Enforcement [REDACTED] or Scott Howe [REDACTED] Senior Escalation and Enforcement Manager.

Yours sincerely



Alun Jones  
 Interim Chief Executive  
 Healthcare Inspectorate Wales

Gwirio bod pobl yng Nghymru  
 yn derbyn gofal da

Checking people in Wales are  
 receiving good care

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# Healthcare Inspectorate Wales

## Service of Concern process for NHS Bodies in Wales

July 2021

## Background

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 is proposing to introduce a Service of Concern process and designation for the NHS.

Currently, HIW follows an internal escalation process when an issue of concern comes to our attention. Our new proposal is to formally use a Service of Concern designation when HIW 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.

We believe that using a Service of Concern designation will increase transparency around how HIW discharges its role and 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.

The Service of Concern designation will be 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.

## What does HIW want to achieve from this engagement?

- To communicate our intentions around the NHS Service of Concern designation to stakeholders, and build a greater understanding of HIW's extant escalation process. We also wish to alert health board or trust representatives to the implications of this process, and highlight that they are likely to be called upon to attend formal meetings and account for matters arising in settings or services
- To raise awareness of HIW's intention to actively call upon NHS services to account for improvements that are required within services, and raise awareness that identification as a Service of Concern will be a key step in our escalation process
- To respond to queries from stakeholders who may wish to offer feedback about this process.

# Engagement Proposal

## What will happen?

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.

If a Service of Concern is identified, HIW will communicate this fact publicly, most likely within a report that relates to an inspection or review of a health board/trust. HIW may also, depending on the nature of the concerns, reserve the right to produce a separate communication around a Service of Concern on our website.

## When will it happen?

If you wish to comment about this approach, then please send your contributions to Scott Howe, Senior Escalation and Enforcement Manager [REDACTED] or Rhys Jones, Head of Escalation and Enforcement [REDACTED] by **30th September 2021**. We will consider any responses we receive, in order to inform the implementation of this process.

We are aiming to implement the Service of Concern approach for NHS services from autumn 2021.

Annex A

# Healthcare Inspectorate Wales

## Service of Concern process for NHS Bodies in Wales

Draft 5.0

# Engagement Proposal

## 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 of Concern identified?**

The *NHS Service of Concern pathway* (appendix 1) illustrates HIW's escalation process in relation to NHS services, and how a Service of Concern 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.

## **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 of Concern designated?**

## **Stage 3 – Conduct a Service of Concern meeting to determine whether a service meets the threshold of Service of Concern**

The key element that will determine designation a Service of Concern 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 for a service to be designated as a Service of Concern. 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 pathway.

### ***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 of Concern'. This meeting along with any decisions and rationale will be recorded.

## **How is a Service of Concern managed?**

Once identified, a Service of Concern will be subject to a higher level of monitoring by HIW. Each service of concern 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.

## **Service meetings**

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

- HIW representative
- Health board/trust representative
- Welsh Government representative
- 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 Service of Concern process may result in further escalation through the NHS Wales Escalation and Intervention Arrangements.

## **How is a Service of Concern de-escalated?**

A Service of Concern 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).

## **Monitoring and Governance**

HIW's Escalation and Enforcement team are responsible for monitoring services of concern. Each Service of Concern will be reviewed on a regular basis.

# Engagement Proposal



Service of Concern 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.

## Appendix 1

### NHS Service of Concern pathway

