

Quality and Governance
in Health and Care in Wales

White Paper Impact Assessments

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White Paper on Quality and Governance in Health and Care in Wales

Background Context

Programme for Government

1. The Programme for Government – Taking Wales Forward 2016-21¹ states – we will protect and improve the Welsh NHS over the next five years and ensure it develops effectively to meet future needs.

Green Paper Consultation

2. On 6 July 2015, we published the Green Paper, ‘Our Health, Our Health Service’ on NHS Quality, Governance and Functions² for consultation to promote a high level discussion and pose open questions to help inform any future actions.

3. The Green Paper was set out in two parts:

Part 1 dealt with the quality and service improvement agenda and set out the actions taken so far, the challenges faced, and a number of questions on what else might need to be done to improve quality in health care in Wales. It explored potential mechanisms such as duties of quality and candour, and common standards frameworks, and also looked at strengthening engagement, the patient voice, and regulatory and inspection bodies.

Part 2 covered a number of issues relating to the organisational and governance structures currently in place which need to be revisited since the last major health reforms of 2009, and which are key drivers in ensuring that organisations have the structures, skills and enablers to support quality. It looked at issues of finance, planning, board membership, workforce partnership working, and the potential expansion of NHS Wales Shared Services Partnership to a Wales-wide role.

Green Paper Summary Report

4. The summary of responses report³, published on 22 February 2016, highlighted the key themes which emerged as the potential areas where there was most support for further work, whether that is through further guidance, policy development, or legislative proposals. These have now been developed further into a White Paper.

¹ Welsh Government Taking Wales Forward 2016-2021, Welsh Government 2016

² Green Paper, ‘Our Health, Our Health Service’ on NHS Quality, Governance and Functions, Welsh Government, July 2015

³ Green Paper Summary Report, Welsh Government, February 2016

White Paper development

Summary of Proposals

5. As indicated above, the responses to the Green Paper consultation showed there was an appetite for further work and potential legislation across a number of areas related to quality and governance. The White Paper develops the policy areas in more detail, categorised under the following headings:

Effective Governance

6. Local health boards and NHS Trusts need to have the right powers, governance and accountabilities to enable leaders to take the right decisions with and for people. Boards also need to be of the right size and have the right people on them to act strategically and in partnership with citizens and other organisations.
7. The White Paper sets out how our proposals for change including through potential new legislation will help to bring about this mix of culture, strong leadership and governance which will be essential if local health boards are to unlock their promise as population-based organisations. It looks at:
 - The Composition of Boards, and
 - The Role of the Board Secretary.

Duties to Promote Cultural Change

8. In order to promote a culture of co-production, we must explore options for further enhancing openness, transparency and candour in health and social care. It also talked about the need for local health boards to look beyond their own statutory boundaries when planning and making decisions in order to focus on the quality and safety of health and care services.
9. The White Paper sets out our proposals for two new duties which we believe will bring more focus to actions and decision-making. These are:
 - A Duty of Quality for the Population of Wales, and
 - A Duty of Candour.

Person-centred Health and Care

10. All health and social care service providers in Wales need to demonstrate that they are doing the right thing, in the right way, in the right place, at the right time and with the right staff. Their care should be 'person centred' and individualised. The White Paper sets out proposals which will strengthen person centred care, through:

- Setting and Meeting Common Standards, and
- Joint Investigation of Health and Social Care Complaints.

Effective Citizen Voice, Co-production and Clear Inspection

11. The direction of travel is for health and social care services to be provided in a more integrated fashion, aiming to provide a seamless, person centred experience, along a pathway which encompasses primary care, acute care and social care. The White Paper looks at plans for strengthening arrangements for:

- Representing the Citizen in Health and Social Care
- Co-producing Plans and Services with Citizens, and
- Inspection and Regulation.

Evidence Base

12. Before proposing any legislative change we need to be clear about the issues we are trying to address, what we are building on, and the intended effect of the changes. The White Paper builds on recommendations made in reviews by the OECD, Ruth Marks, Sir Paul Williams and others as well as in important pieces of legislation including the Well-being for Future Generations (Wales) Act 2015 and the Social Services and Well-being (Wales) Act 2014. The proposals in the White Paper aim to enable and empower organisations and citizens to work together.

13. Below is the reference to some of the evidence sources used in the White Paper, however it is not an exhaustive list.

White Paper Area	Evidence Base
Board Membership	The Commission on Public Service Governance and Delivery (Williams Commission) ⁴ questioned whether the current arrangements for health board membership provide the required level of challenge and, by extension, the spur to improve service quality. It recommended a review of the current number, representation and appointment process of independent members of health boards.
Board Secretary	The National Assembly Public Accounts

⁴ Commission on Public Service Governance and Delivery (Williams Commission), Sir Paul Williams, January 2014

	Committee's inquiry report into the governance arrangements at Betsi Cadwaladr University Health Board ⁵ , in 2013 and the earlier joint report into governance arrangements at Betsi Cadwaladr University Health Board by Healthcare Inspectorate Wales and the Wales Audit Office scrutinised the role of Board Secretary.
Quality	The OECD Review of Health Care Quality in the UK ⁶ , published in 2016, made a number of observations about systems for quality improvement in Wales.
Duty of Candour	A legal duty of candour formed part of the Mid Staffordshire NHS Foundation Trust public inquiry recommendations ⁷ . The duty recommended by the Francis report promoted enabling complaints to be made without fear; sharing the truth about performance with staff, patients, the public and regulators and informing patients of any harm done to them and offering appropriate remedies, regardless of whether a complaint has been made. This was also picked up in the Evans Review (see below).
Joint complaints	The Evans review ⁸ recommended that <i>Putting Things Right</i> guidance should be reviewed in order to reflect the closer-knit working between the NHS and social care in Wales and enhance the ability of organisations to deal effectively with cross-cutting complaints received.
Regulation and Inspection	The Ruth Marks' review of Healthcare Inspectorate Wales (HIW) ⁹ made a number of recommendations about the effective operation of HIW and also advised further work on independence and a potential merger with Care and

⁵ National Assembly Public Accounts Committee's inquiry report into the governance arrangements at Betsi Cadwaladr University Health Board, NAW Public Accounts Committee, February 2016

⁶ OECD Review of Health Care Quality in the UK, OECD, February 2016

⁷ Mid Staffordshire NHS Foundation Trust public inquiry recommendations, Robert Francis QC, February 2016

⁸ The Evans review, Using the Gift of Complaints, Keith Evans June 2014

⁹ Ruth Marks' review of Healthcare Inspectorate Wales (HIW) Ruth Marks, November 2014

	Social Services Inspectorate Wales (CSSIW).
Citizen Voice	The Ruth Marks review also raised the issue of potential duplication between some Community Health Council (CHC) functions with the inspectorates. The OECD report also recommended a focus on patient voice and asked questions about the value of CHCs' current functions. The Ann Lloyd Review (see below) also touched on the role of CHCs in service change.
Service Change and Co-production	Ann Lloyd reviewed the way in which health boards carried out their engagement and consultation role in major service reconfiguration. ¹⁰ She identified a number of strengths in the approaches taken, highlighting for example, better engagement with clinicians but she also identified a number of areas for improvement. In particular, she pointed to the need for better continuous engagement with local communities and not just when specific change options are being presented.

Stakeholder Engagement

14. Extensive engagement took place during the Green Paper consultation and some specific policy engagement has been carried out in advance of the White Paper publication. Further engagement with partners and the public will take place during the consultation on the White Paper from 28 June to 29 September.

Green Paper Consultation

15. The consultation ran for an extended period from 6 July until 20 November 2015, to provide plenty of time to gather views. We utilised a number of communication streams to engage stakeholders, interested parties and the public including:

- Technical briefing with the press
- Emails to key stakeholders

¹⁰ Lessons learned independent review into NHS Service Change Engagement and Consultation Exercises by Health Boards in Wales. Ann Lloyd CBE, January 2014

- Welsh Government social media channels
- Articles in key stakeholder groups' magazines/bulletins
- BSL video on the Welsh Government YouTube channel
- Easy Read version of the Green Paper.

16. A total of 170 written responses were received¹¹ ; 15 of these arrived after the closing date but the comments were taken into account. We also held two stakeholder events during the consultation period, one in Carmarthen and one in Wrexham, to capture views. The responses and comments varied widely from detailed views about health board membership and leadership, to comments about achieving collaboration and partnership working and from thoughts about effective regulation and inspection to capturing the patient voice. Generally one of the wider messages was that the introduction of new legislation in a number of areas was not supported where existing provisions could be more effectively used with the strengthening of systems and mechanisms preferred to placing further statutory duties.

17. A report summarising the key themes arising from the consultation, including the written responses, the various meetings attended by officials and the two hosted events was produced. The report aimed to present a balanced summary of those responses received with no specific weight given to any organisation or individual. The summary of responses report was published on 22 February 2016.

Monitoring and Evaluation

18. The measure of success of the policy will be assessed through a monitoring framework which will be developed as part of the implementation plan once the outcome of the White Paper consultation is known. Should future legislation be taken forward by the end of this Assembly term, we will be giving further consideration as to how to measure the success of the various policy proposals. We will also set out in updated individual Impact Assessments.

19. We expect that monitoring the success of these proposals will be carried out via various existing mechanisms for overseeing quality improvement.

20. As part of the White Paper consultation and consideration of proposed future legislation we will engage with key stakeholders including the Children's Commissioner for Wales, the Older People's Commissioner for Wales, the Welsh Language Commissioner and the Future Generations Commissioner for Wales.

¹¹ Our Health, Our Health Service Green Paper Consultation – Full list of respondents February 2016

The Impact Assessments

Our Approach to the Impact Assessments for this White Paper

21. The White Paper sets out the Welsh Government's proposals for action in a number of areas. Whilst there is a possibility that some or all of these areas could in time be developed into legislation, no firm decisions have yet been made. Therefore, for the purposes of the White Paper we consider that a relatively high level of impact assessment is proportionate at this stage. We have therefore brought the three mandatory impact assessments together within one overarching paper. If legislation is developed then more detailed impact assessments will be prepared.
22. Schedule 1 provides a more detailed breakdown against the enabler areas of the White Paper.

Equality and Diversity

23. The objective of this White Paper is to establish a robust governance framework and continued focus on quality improvement allowing for greater partnership working across local health boards and with partners; more effective engagement with the public and representation of citizens' voices; the implementation of common processes, such as standards and complaints systems to underpin and integrate services; openness and transparency and clarity in the remit of inspection.
24. Because the core themes of this White Paper are to strengthen leadership and governance and drive improvements in quality, these should have a direct impact in reducing the chances of unlawful discrimination, harassment or victimisation.
25. Co-production should break down the barriers between professionals and the people who use their services. It is about people making joint decisions about their own care. It is also about service planners and providers seeing their users as people with useful skills and experience to bring to the decision-making process. Systems across health and social care now need to make a real shift toward this way of working because this is how standards and quality will be improved.
26. One of the objectives outlined as part of the White Paper is to promote key principles across NHS organisations in Wales to encourage a common approach across the whole system, whilst ensuring that individual needs are met. Individuals and their families can expect to have the same standard of care across regions and services rather than a fragmented disparate approach. All individuals of Wales should be subject to common principles, arrangements and opportunities in their well being and health and social care services.

Children's Rights

27. Wales was the first country to enshrine children's rights in law. This means whenever we make a decision we must consider the impact on children and young people. We want children and young people in Wales to lead safe, happy and healthy lives and feel listened to and respected by those around them.
28. The Social Services and Well Being Act 2014 states that a person exercising functions under this Act in relation to a child must have due regard to Part 1 of the United Nations Convention on the Rights of the Child (UNCRC) adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989 ("the Convention").
29. The UNCRC articles that are most relevant to the proposals put forward by this White Paper are the following:
- **Article 6**
All children have the right of life. Governments should ensure that children survive and develop healthily.
 - **Article 12**
Children have the right to say what they think should happen, when adults are making decisions that affect them, and to have their opinions taken into account.
 - **Article 23**
Children who have any kind of disability should have special care and support so that they can lead full and independent lives.
 - **Article 24**
Children have the right to good quality health care and to clean water, nutritious food and a clean environment so that they will stay healthy. Rich countries should help poorer countries achieve this.
 - **Article 33**
Children have the right to learn and use the language of customs of their families, whether these are shared by the majority of people in the country or not.
30. Furthermore the 2016 UNCRC Report for the UK Government (including Welsh Government) Report highlighted concern that many children with disabilities do not see that their views are given due weight in making personal decisions in their life, including choice of support and future.
31. Recognising the needs of children and young people in the planning of services and taking their opinions into consideration as part of continuous and active engagement for a renewed citizen voice model will go some way to promote the UNCRC Articles and recommendation above.

32. Through the key principles proposed all citizens should be at the centre of their own healthcare, through joined up integrated arrangements, informed decision making and improved quality services. The White Paper is proposing to legislate for a new statutory mechanism for continuous engagement with appropriate outcome measures. This will take into consideration engaging with a cross representation of the local population, which would include children and young people.

Welsh Language

33. The Welsh Language (Wales) Measure 2011 gives official status to the Welsh language in Wales. This includes treating the language no less favourably than English, and the freedom for people to use the Welsh language with one another. The measure provides for new standards which are being placed on a range of organisations across the public and private sector. Public bodies in Wales, including Health Services, must promote and facilitate the use of the Welsh language, and support those who wish to work or conduct their business through the medium of Welsh through an active offer.

34. The Welsh Government's present strategy for the Welsh language; *iaith fyw: iaith byw - Strategaeth y Gymraeg 2012–17: A language for living - Welsh language strategy 2012 to 2017* – is currently being replaced by a new strategy to support the Welsh Government's objective of a million Welsh speakers by 2050. A draft of the new strategy has been consulted on and a summary of the consultation responses published. The final strategy will be published in 2017. It is likely to stress the importance of education and early years provision, use of Welsh in the workplace and in delivering public services, and promoting the use of Welsh more widely. There is likely to be a particular focus on using the language – in the community, when accessing public services, and within the workplace.

35. This White Paper and accompanying Impact Assessment will adhere to the ministerial commitment that consultations, legislation and guidance will have due regard to the Welsh language, and therefore are available in both English and Welsh.

36. *Mwy na geiriau: fframwaith Llywodraeth Cymru ar gyfer gwasanaethau iaith Gymraeg mewn iechyd, gwasanaethau cymdeithasol a gofal cymdeithasol: More than just words: the Welsh Government's framework for Welsh language services in health, social services and social care* sets out a strategic approach to ensuring patients receive services according to Welsh language need and choice. Many Welsh speakers feel more comfortable expressing themselves and communicating their needs in Welsh, as they think and live their lives in Welsh. . The delivery of the framework will be supported through the proposals in the White Paper that focuses on patient centred care and for a new statutory mechanism for continuous engagement that will provide additional support, expertise and guidance to engage with a

cross representation of the local population, including those who communicate, engage and get involved in Welsh should they need or wish to.

37. Ensuring that NHS organisations fulfil their duty to engage through various mechanisms, such as patient panels or participation groups, will help people exercise their rights and make informed choices. NHS organisations would need to evidence that representation from all of the local population, including Welsh speakers, have been taken into consideration as part of the engagement mechanisms in the planning and delivery of services to meet the needs of the population.
38. Co-production should break down the barriers between professionals and the people who use their services. It is about people making joint decisions about their own care. It is also about service planners and providers seeing their users as people with useful skills and experience to bring to the decision-making process. If patients want to engage in this process through the medium of Welsh they can be afforded this opportunity.

White Paper Enablers and Impact Assessments

	Equality and Diversity	Children's Rights	Welsh Language
Effective Governance			
Impact	<p>One of the underlying principles of the White Paper is to ensure that the citizen's voice is heard. This will be strengthened through Board appointments to reflect the diversity of the society in which we live and take account of the necessary balance of skills and backgrounds.</p> <p>The White Paper will provide mechanisms to allow representation to be strengthened where required, through the further amendment of Regulations.</p> <p>All appointments made by Welsh Ministers must comply with the requirements of the Equality Act 2010.</p> <p>The role of the Board Secretary which is to provide independence, challenge and ensure the Board meets its statutory duties will be further bolstered by the White Paper proposals for protective status.</p>	As highlighted the Boards must reflect representation from their local population, which will include consideration of Children's Rights.	<p>As highlighted the Boards must reflect representation from their local population, which will include consideration of the Welsh Language.</p> <p>All appointments made by Welsh Ministers should comply with the requirements of the Welsh Language (Wales) Measure 2011, specifically the requirements of their Welsh Language Standards on recruiting and appointing.</p>
Monitoring & Review	<p>We will continue to monitor through the public appointment process, which takes into consideration the performance and attendance of existing Board members as well as the principles of the Governance Code on Public Appointments and compliance with relevant legislation.</p> <p>We will also monitor how equality/ children's rights and Welsh language considerations/ impacts are considered</p>		

	Equality and Diversity	Children's Rights	Welsh Language
	within Board papers/ discussions and input from champions to ensure there is balanced and strengthened representation of issues to improve decision making		
<i>Duties to Promote Cultural Change – Duty of Quality for the Population of Wales</i>			
<ul style="list-style-type: none"> Impact 	A duty of quality for the population of Wales will ensure local health boards work with partners and citizens to promote well-being and to plan and provide services to meet the needs of the population. This will mean paying particular attention and focussing on the needs of different sectors of the community and of individuals including older people, those with sensory impairment, physical disabilities and mental health needs.	Recognising the needs of children and young people in the planning of services will be a key consideration and the new duty will underpin this expectation.	Ensuring that services are planned and delivered to meet the needs of Welsh speakers is part of the provision of a safe, quality health service, which this new duty will support. Meeting the needs of the population in the planning so services will also include involvement and consideration of the needs of Welsh speakers.
<ul style="list-style-type: none"> Monitoring & Review 	We would expect to monitor this duty via a number of mechanisms, including the Integrated Medium Term Plans (IMTPs), Annual Quality and Governance Statements, engagement plans and other information published by local health boards, as well as through Quality and Safety meetings and more strategic groups such as the National Quality and Safety Forum. We would also monitor via work undertaken with partners in promoting well-being and integration especially via the Public Services Board and Regional Partnership Forums.		
<i>Duties to Promote Cultural Change – Duty of candour</i>			
<ul style="list-style-type: none"> Impact 	A duty of candour will require organisations and the individuals working in them to be open and transparent in their relationships with service users. This will mean gaining an understanding of the characteristics of the service user and ensuring the approach being taken reflects	Where children and young people have capacity, then the Duty of Candour would apply equally to them as to an adult. Duty of Candour will still apply to a child or	Communicating with individuals in Welsh is an essential part of providing a safe, quality service. The approach to be taken will need to reflect Welsh

	Equality and Diversity	Children's Rights	Welsh Language
	cultural and other requirements.	young person who lacks capacity but this would need to be worked through with the person with parental responsibility.	Language requirements.
<ul style="list-style-type: none"> Monitoring & Review 	We would expect to monitor the effect of a Duty of Candour through looking at the number of complaints, at all levels, about communication and complaints handling. In particular a large number of complaints to the Public Services Ombudsman for Wales are about the way in which complaints have been dealt with. We would expect more openness and transparency at organisational level to result in fewer concerns being taken forward through the formal channels.		
<i>Person-centred Health and Care - Common Standards</i>			
<ul style="list-style-type: none"> Impact 	The standards that underpin care should have common principles regardless of whether the focus is health care or social care. Care and the standards that underpin care needs to be perceived principally through the eyes of the person receiving care and not through the eyes of the organisations delivering the care. Introducing common standards should therefore have a positive effect in improving service delivery by improving equity and allowing a focus on individualised care.	Common standards will apply to services provided to children and young people and will improve equitable access to services.	Welsh speakers and Welsh speaking communities are likely to benefit from common standards and the contribution they will have in improving service delivery and person centred care.
<ul style="list-style-type: none"> Monitoring & Review 	We would expect to monitor the effectiveness of common standards through the quality of inspection reports produced by the inspectorates and health and care organisations would also do so through their self assessment and other audit-related processes.		

	Equality and Diversity	Children's Rights	Welsh Language
<i>Person-centred Health and Care - Joint handling of health and social care complaints</i>			
<ul style="list-style-type: none"> Impact 	<p>The proposal for joint handling of complaints is likely to be of general benefit, although we anticipate that older people and others with care and support needs, carers and people with disabilities in particular would see positive effects, given that services often need to work together to provide packages of care. In dealing with complaints, organisations should ensure they have taken into account any specific characteristics relating to the complainant and family to ensure the best outcome from the investigation.</p>	<p>We would anticipate that children and young people will benefit from joint complaints handling, in particular those who need joint care packages or those moving between children and adult services.</p>	<p>Welsh Language speakers are likely to benefit from joint complaints handling as teams within organisations will be able to pool Welsh Language expertise and resources to offer more tailored approaches through the medium of Welsh.</p>
<ul style="list-style-type: none"> Monitoring & Review 	<p>We would expect to see fewer complaints about health and social care being taken to the Public Services Ombudsman for Wales and we would monitor this to see the effect of the proposed changes.</p>		
<i>Effective Citizen Voice and Clear Inspection</i>			
<ul style="list-style-type: none"> Impact 	<p>The proposals for more effective continuous engagement with local communities as well as those for a renewed citizen voice model will benefit all sectors of the community. Health boards will be held more closely to account on their duty to engage with the population and the focus they place on the diverse range and specific needs of individuals and minority groups, including BAME communities, gypsy traveller communities and others. The proposed changes to the citizen voice arrangements will mean more flexibility for the new body to secure a diverse</p>	<p>As set out in Article 12 of the UNCRC, children have the right to say what they think should happen, when adults are making decisions that affect them, and to have their opinions taken into account. We would expect organisations to take this fully into account when engaging with citizens and in the way they are represented.</p>	<p>Continuous and active engagement with local communities noted under equality and diversity will include the Welsh speaking population and communities and this should be offered in through the medium of Welsh.</p> <p>The More than just words framework for 2016- 2019</p>

	Equality and Diversity	Children's Rights	Welsh Language
	<p>cross-section of volunteers, suited to local needs.</p> <p>Clearer legislation for Healthcare Inspectorate Wales will be of overall benefit to the community as there will no longer be any regulatory gaps. In terms of the proposed new body for inspection, regulation and patient voice, this will be a powerful check and balance in holding the health and social care to account.</p>		<p>includes actions on regulation and inspection including the audit and mainstreaming of inspections on the provision and experience of Welsh language services.</p>
<ul style="list-style-type: none"> Monitoring & Review 	<p>We would expect to monitor the effectiveness of these new proposals through regular reporting and liaison activities with individual organisations and the proposed citizen voice body. In terms of service change, the effectiveness of the new arrangements and of continuous engagement will be measured by the number of decisions which need to be called in by Ministers. We would expect these to be low in number.</p>		