

MINUTES

Date: Wednesday, 5 November 2003

Time: 9.00am to 12.50pm

Venue: Committee Room 1, National Assembly for Wales

Attendance: **Members of Health & Social Services Committee**

David Melding (Chair)	South Wales Central
Jocelyn Davies	South Wales East
John Griffiths	Newport East
Jane Hutt (Minister)	Vale of Glamorgan
Dai Lloyd	South Wales West
Val Lloyd	Swansea East
Jonathan Morgan	South Wales Central
Lynne Neagle	Torfaen
Gwenda Thomas	Neath
Kirsty Williams	Brecon and Radnorshire

Officials In Attendance

Dr Christine Daws	NHS Finance Division
Dr Ruth Hall	Chief Medical Officer
Joanest Jackson	Office of the Counsel General
Ann Lloyd	Director, NHS in Wales

Mike Lubienski	Office of the Counsel General
Mike Shanahan	Social Care Policy Division
Helen Thomas	Director, Social Policy Department

Secretariat:

Jane Westlake	Committee Clerk
Claire Morris	Deputy Committee Clerk
Peter Jones	Counsel to the Committee

Item 1: Apologies and Substitutions and Declarations of Interest

1.1 There were no apologies.

1.2 There were no declarations of interest.

Item 2: Ministerial Report (9.05 – 10.05am)

Paper: HSS(2)-05-03(p.1)

2.1 The Minister made a statement on orthopaedic developments in Gwent and Cardiff & Vale NHS Trusts. A copy is attached at Annex A.

2.2 In response to comments from Members on the statement, the Minister made the following points:

- The schemes' progress would be monitored on a monthly basis. Waiting times information would also provide a means for monitoring progress.
- A benchmarking analysis had been undertaken. A summary would be included in the next Ministerial report, along with details of how the additional funding was expected to reduce waiting times.
- Emergency admissions in Gwent were 30per cent higher than the average in England and non-emergency admissions lower. The average length of stay was nine per cent higher.
- The allocation would not cover all the revenue costs. The Trusts would be expected to make a contribution.
- The St Woolos scheme would proceed immediately and the Nevill Hall scheme would be progressed in due course. Further details would be provided on the timescale for the Nevill Hall development.

2.3 In response to comments and questions from Members on her report, the Minister made the following points:

Innovations in Care

- Innovations in care were necessary to deal with the demand for services as a result of high levels of ill health and older population in Wales.
- Outpatient Improvement Managers enabled patients to have a greater say in arranging outpatient appointments and this had resulted in greater efficiency.
- Waiting times would not be reduced without intervention and modernisation.
- Trauma and orthopaedic surgery needed to be carefully managed because of the effect emergency admissions had on reducing elective capacity. A multi-disciplinary approach reduced pressure on surgery.
- Validation of inpatient and outpatient waiting lists was very important but the need to be more sensitive in writing to waiting patients was acknowledged.
- It was the responsibility of Local Health Boards (LHB) to work with their GP community and primary care teams to ensure a whole system approach between patients, primary and secondary care sectors.
- The project to maximise theatre time was still in early stages and a detailed progress report would be provided.

2.4 Ann Lloyd confirmed that there were still outstanding issues on Gwent LHB's financial settlement for this year but it was hoped these would be resolved the following week.

Cardiac Surgery and Angiography Waiting Times

- Around 50% of people receiving angiograms were 'through the door' cases. Patients were presenting themselves because they were more aware of the facilities available.
- Discussions were ongoing with the clinical network regarding cardiac services for Gwent. Further details would be provided once those discussions were concluded.
- The Minister acknowledged the commitment of Cardiology staff at Morriston in reducing waiting times.

General Medical Services (GMS) Contract

- The legislative timetable was still being worked out with the Department of Health. A schedule of the secondary legislation necessary to implement the contract would be provided to Members as soon as it was available. The executive procedure would only be used if necessary.
- LHB plans for Out of Hours services were being evaluated. Information on progress and costings would be included in the next Ministerial report.
- The Project Board would be asked to consider the difficulties that could arise when a GP practice crossed LHB boundaries.

Delayed Transfers of Care

- Further information on the balanced scorecard assessment in Gwent would be provided.
- Independent care homes should benefit from the transfer of funding to local authorities' revenue support grant.

2nd Annual Report of the Children's Commissioner for Wales

- Information on the number of referrals made by the Commissioner to social services departments during the period of his report would be provided in time for the plenary debate that afternoon.

Keep Well This Winter

- GP practices were taking a proactive role in offering flu vaccinations and a better take up was expected this year.

Parenting Developments

- Corporate parenting was important as part of the whole parenting arena and would be included in the Minister's response to the UK Government's Green Paper 'Every Child Matters'.

Eye Health Examination

- Further information would be provided on age related macular degeneration (AMD).

Amendments to the Consultant Contract

- An update on the consultants' contract would be included in the next Ministerial report.
- It was not anticipated that secondary legislation would be required to amend the contract.

Action

- Further details on the timescale for the Nevill Hall orthopaedic development would be provided.
- Details would be provided on how the maximising use of available theatre time project was being taken forward.
- Further information to be provided on cardiac services and the balanced scorecard assessment in Gwent.
- Further information would be provided on Age Related Macular Degeneration (AMD).
- The following items would be included in the next Ministerial report:
- Benchmarking analysis of orthopaedic services in Gwent and details of how additional funding was expected to reduce waiting times.
- Progress report on LHB planning and estimated costs of out of hours provision

Item 3: Domiciliary Care Agencies (Wales) Regulations and Standards (10.05 - 10.50am) Papers: HSS(2)-05-03(p.2a); HSS(2)-05-03(p.2b); HSS(2)-05-03(p.2c); HSS(2)-05-03(p.2d)

3.1 The Minister introduced the draft regulations and national minimum standards.

3.2 In accordance with the procedure previously agreed by the Committee for handling legislation, points of clarification and amendments to the draft Regulations had been circulated in advance of the meeting and can be found in paper HSS(2)-05-03(p.2d).

Points of Clarification raised by Dai Lloyd AM, Plaid Cymru

Further clarification was sought on:

- the definition of personal care;
- the entry criteria, or rights of access, for Care Standards Inspectorate Wales to de-regulated homes;
- guidance given to service providers for those suffering from learning disabilities.

3.3 It was accepted that the interpretation of personal care had been extended as far as the Care Standards Act would allow, but Members were extremely concerned that people with severe learning disabilities in supported housing settings would be vulnerable as a result of these settings being de-registered as care homes.

3.3 The Minister said that the Task and Finish Group had recommended further work to map the commissioning, contracting, inspection and regulatory regimes that protected vulnerable people in supported housing settings. This work would begin soon was expected to conclude within six months. It

might be that a bespoke regime for supported housing was necessary, and all the parameters would be considered. Under the Care Standards Act, the Care Standards Inspectorate for Wales (CSIW) did not have the right to inspect a service user's home but were able to ask the service user or their representative for permission.

Amendments proposed

Part I

Amendment 1 (*Jonathan Morgan AM, Conservative*):

add a new point to Schedule 1

"The range of sub-contracted services by the agency."

Rationale: There is no mention, in the body of the regulations or the Schedules, of the prospect of sub-contracted services being provided by the agency to other organisations. Service users should be aware of the range of services that the agency provides. Regulation 4 paragraph (1), sub paragraph (d), would therefore ensure that the Statement of Purpose contained such information.

Response from Minister

The principle of the amendment was accepted. The Minister would bring forward an amendment to clarify the issue before the regulations were debated in plenary.

Conclusion

Amendment 1 was withdrawn.

Part II

Amendment 2 (*Jonathan Morgan AM, Conservative*):

in Schedule 1 add a new point:

"The procedure to be followed by the agency to remove a person who has been found guilty of an offence committed whilst providing services to a care user." *and*

Amendment 3 (*Jonathan Morgan AM, Conservative*):

add a new sub paragraph to regulation 12 (Notification of Offences)

"(d) the procedure to remove a person when the offence has been committed during the provision of care services."

Response from Minister

Any action against an employee of an agency was the agency's responsibility as an employer and not that of the Assembly.

Mike Lubienski, Office of the Counsel General, confirmed this was addressed within the regulations. Under Regulation 15 there was an obligation on the registered person to ensure they did not employ someone who did not meet certain criteria, one of which was a check against criminal records disclosure. Regulation 16(2)d required the registered person to ensure that each member of staff was required to notify them if convicted of any criminal offence. It would therefore fall to the employer's own disciplinary procedure to evaluate the offence and decide if it required disciplinary action. Regulation 17 required the registered person to provide all staff with a staff handbook, stating the conduct expected of them and including the disciplinary action that could be taken against them.

Conclusion

Amendments 2 and 3 were withdrawn.

Part III Amendments

Amendment 4 (*Jonathan Morgan AM, Conservative*):

In regulation 14 (Arrangement for the provision of personal care) delete sub paragraph (a) of paragraph (1).

Response from Minister

Local authorities had a statutory duty to ensure an assessment of need had been undertaken. The amendment was not supported as it was felt it would undermine the statutory assessment.

Conclusion

The Committee voted on Amendment 4:

For 2; Abstain 3; Against 5.

The following Members voted for:

David Melding
Jonathan Morgan

The following Members abstained:

Jocelyn Davies
Dai Lloyd
Kirsty Williams

The following Members voted against:

John Griffiths
Jane Hutt
Ann Jones
Val Lloyd
Gwenda Thomas

The amendment was defeated.

Amendment 5 (*Gwenda Thomas AM, Labour*)

Regulation 14(2)(a) to be amended to read:

"(2)The registered person shall-

(a) make the service delivery plan available to

(i) the service user, and,

(ii) any person acting on behalf of a service user who was consulted in its preparation or revision;"

Response from Minister

The amendment was accepted.

Amendment 6 (*Gwenda Thomas AM, Labour*)

Add to regulation 14(5) (a) "ensuring appropriate steps are taken immediately to reduce the risk of further abuse, neglect or other harm"

Response from Minister

The amendment was accepted, subject to rewording to read:

"ensuring appropriate steps are taken immediately to reduce the risk of *any* abuse, neglect or other harm".

Amendment 7 (*Jonathan Morgan AM, Conservative*):

in regulation 14, paragraph (5), add a new sub paragraph (b) and reorder accordingly

"(b) specify that a person against whom an allegation of abuse, neglect or harm, is made shall not be in contact with any service user during the course of the investigation procedure;"

Response from Minister

The amendment was not accepted for the same reasons Amendments 2 and 3 were rejected.

Conclusion

The Committee voted on Amendment 7:

For 3; Abstain 2; Against 5.

The following Members voted for:

David Melding
Jonathan Morgan
Kirsty Williams

The following Members abstained:

Jocelyn Davies
Dai Lloyd

The following Members voted against:

John Griffiths
Jane Hutt
Ann Jones
Val Lloyd
Gwenda Thomas

The amendment was defeated.

Amendment 8 (*Jonathan Morgan AM, Conservative*):

delete regulation 22 paragraph (2) and replace with the following

"(2) The National Assembly shall issue guidance outlining the complaints procedure which shall enable staff to:

- a. inform the agency of their view about any matter to which this regulation applies;
- b. inform the National Assembly, without reference to the agency, of their view about any matter to which this regulation applies.

Response from Minister

Regulated agencies were responsible for their own complaints procedure, not the Assembly. The

Minister would amend the regulation to include, "without reference to the agency" which would protect the anonymity of staff who wished to report any concerns.

Conclusion

The amendment was withdrawn.

3.4 The Minister confirmed that if there as any delay in processing applications for registration, those agencies that applied within the prescribed time would be exempt from prosecution until their application was determined.

3.5 The Chair asked that the Minister's next report should include material on implementation, including the capacity for staff training.

3.6 Members asked that as the regulations were only for Wales, they be written in gender neutral language.

Action

- Information on implementation arrangements, including the implications of staff training to be included in the next Ministerial Report.
- Regulations to be redrafted using gender neutral language.

Item 4: Welsh Assembly Government's Response to the Review of Health and Social Care (11.10 - 12.15pm)

Paper: HSS(2)-05-03(p.3)

4.1 The Minister introduced the Welsh Assembly Government's response to the Review of Health and Social Care in Wales.

4.2 The Committee focussed its discussion on the four main themes underpinning the Assembly Government's implementation plan.

Prevention

4.3 Opposition parties' members made the following points:

- The Review had concluded that "the present position is unsustainable" and that some services were not safe. The Welsh Assembly Government's response failed to address the need for immediate action.
- There was insufficient detail on how laudable aims such as preventing ill health and reducing avoidable risks would be achieved.
- The response did not contain measurable objectives or targets against which progress could be monitored.
- There was no strategic plan for improvement in response to the report or indication that it had influenced the Government.

4.4 The Minister said that she was disappointed by this response. A number of initiatives, founded on Improving Health in Wales, had been put in place to deliver improved health and social care services for people in Wales. She had not wanted further structural upheaval but wanted to build on the establishment of local health boards and other initiatives to modernise services.

Optimising Service Delivery

4.5 Members made the following points:

- Health Impact Assessments should be given greater prominence as they impacted on all policies.
- Managed clinical networks were important.
- Informing Healthcare would be key. Integrated, modern IT systems were desperately needed and key to that was the Electronic Patient Record (EPR). It would ensure continuity of care for patients through all healthcare settings, enable communication between health professionals and provide valid, reliable data.
- Workforce planning would be key to taking forward the Review recommendations and trade unions and staff associations needed to be involved in this.

4.6 Opposition party members made the following points:

- The public needed to be well informed about service development and reasons for change.
- There were implicit challenges about local government spending on social care, pooled budgets and whether local authorities should compensate the NHS for delayed transfers of care. These were not addressed.
- Unless waiting list pressures were alleviated quickly there was little hope of implementing the longer-term recommendations of the Review. The Minister should consider provision for treating people outside Wales.
- Local government was not the only method of delivering social care services. The role of the voluntary and private sector needed greater recognition.
- The importance of integrated IT systems had been recognised for many years and urgent action was needed to make systems compatible.

4.7 The Minister made the following points:

- Informing Healthcare would be launched in December. £16m had been earmarked for implementation, a significant amount of which would be required for staff training.
- The flexibilities grant had been safeguarded and was hypothecated.
- The Government was engaging with the voluntary sector. £3m had been allocated for 'Building Stronger Bridges'.

- It was not possible to stem the flow of patients overnight. More people were presenting to Welsh hospitals than anywhere else.
- The Government's strategy was to improve capacity and services in Wales rather than to refer patients elsewhere. Action to reduce the backlog in tonsillectomies had been led by the consultants. Partnership was important.

4.8 Discussion was adjourned until the next meeting of the Committee.

Item 5: Budget Proposals 2004-05 (12.15 - 12.40pm)

Paper: HSS(2)-05-03(p.4)

5.1 The Minister introduced the draft budget for 2004-05.

5.2 Members expressed concern about the adequacy of levels of provision for:

- the GP Out of Hours service;
- local government funding for social care;
- the costs of implementing the European Working Time Directive from August 2004; and
- local health boards and NHS trusts, which would have real term increases of only 0.52 per cent after inflation and the deduction of ring-fenced money.

5.3 Members also commented that:

- local authority provision for social care in revenue support grant (RSG) would leave little new money after pay rise costs had been met;
- consideration should be given to the principles of the Townsend report in the RSG formula;
- it was hoped that the Assembly Government would support the next phase of the Children's Hospital.

5.4 In response these comments and other questions, the Minister made the following points:

- Loans had been provided to LHBs over a three-year period against strategic change and efficiency plans.
- A breakdown of the £24m allocated for the GMS contract was not available. The allocation had

been worked up with the Department of Health.

- The Out of Hours Service would not be implemented until December 2004;
- She had been working with the Minister for Finance, Local Government and Public Services and local authorities to move social care up the agenda, particularly through the policy agreements.
- The Minister had met with Leaders of local authorities to work out how the recommendations of the Review of Health and Social Care in Wales could be addressed and ways of safeguarding funds to do so.
- The Children's National Services Framework (NSF) would provide an important route for looking at issues around low birth weight babies. One of the sub-groups was looking at maternity and pre-natal impacts on low birth weight.
- Ways to modernise the welfare foods payments in line with current needs and strategies were being investigated. An update would be provided to the Committee.
- Trusts, LHBs and Health Commission Wales would be notified of the increases in revenue allocations in December. The information would also be made available to the Committee.
- Support for the next phase of the Children's Hospital for Wales would be considered.
- The increase in the Social Services Inspectorate for Wales (SSIW) budget would support training for social services workers.

Action

- Chair would write to the Minister setting out the Committee's views.
- Minister would provide information on the changes to welfare foods provision.
- Members would be notified of the allocations to LHBs, NHS Trusts and Health Commission Wales.

Item 6: Schedule of Secondary Legislation proposed by the Welsh Assembly Government (12.40 - 12.45pm)

Paper: HSS(2)-05-03(p.5a) and HSS(2)-04-03(p.5b)

6.1 No new items were identified for consideration.

6.2 The Chair asked the Minister if she could write to the Committee in future if it should become necessary to use the executive procedure for an item of legislation the Committee had identified for consideration.

Item 7: Minutes (12.45 - 12.50pm)

Paper: HSS(2)-04-03(min)

7.1 The minutes of 8 October were agreed.

Item 8: Any Other Business

8.1 The Committee had been asked to nominate a representative to participate in the Education and Lifelong Learning Committee's policy review of special education needs. It was agreed that the Chair would undertake this role.

Annex A

Orthopaedic Developments in Gwent and Cardiff & Vale NHS Trusts

I am pleased to make a statement today updating you on the orthopaedic schemes in the Gwent and Cardiff & Vale NHS Trusts.

In January this year, Professor Brian Edwards submitted to me the result of his investigation into the unacceptably long waiting times for orthopaedic services in Gwent. Professor Edwards' recommendations were made within three broad categories relating to tighter management, innovation and capacity. He stressed that whilst the Trust had worked hard to reduce their waiting times, there was more that they could do to modernise their orthopaedic service to make them more efficient and effective, and to strengthen their waiting list management systems. His report confirmed that the NHS in Wales and Gwent in particular needed to extend capacity in this speciality to address current pressures and predicted future demand. In this context he endorsed proposals to provide a combination of additional facilities for orthopaedics in Gwent and Cardiff.

At the committee in February I announced my support for these schemes, with a capital investment of £5.5 million having been earmarked, together with additional revenue support totalling £5 million. Since that announcement the two Trusts have submitted their outline business cases to officials in the Assembly and they have been through a rigorous review process including a value for money scrutiny. This detailed work has been necessary to ensure that patients gain maximum benefit from this additional resource and that it will achieve a real impact in reducing waiting times.

The benchmarking work has recently been completed and whilst Cardiff compares well on an England and Wales basis, the analysis underlines some significant variations of performance in Gwent. I acknowledge that the Gwent Trust has already made significant progress as work continues to deliver on the detailed action plan arising from the Edwards review – they have made a substantial impact on their 18 month waiting times target for both outpatients and inpatients. In addition, Gwent NHS Trust have undertaken to improve their efficiency to maximise the use of the resources that they have - for example, in the light of their value for money report they will concentrate on the numbers of new outpatients in clinic. However, further action will be necessary for them to improve their efficiency to that of the average and this in itself will allow more patients to be seen.

As a result of all these considerations, I am pleased to confirm the following:

- The Welsh Assembly Government will provide a total of £10.72 million from its capital programme over the next 2 years to build additional orthopaedic capacity in South East Wales. This is an important step in reaching sustainable solutions to our current service shortfalls in this specialty.
- The Welsh Assembly Government will contribute £5 million revenue on a recurrent basis to support these developments.
- Proceeding with the St Woolos scheme will have a major improvement on activity levels to meet waiting times targets in Gwent and the Nevill Hall scheme will be progressed in due course. My officials will be reporting back the consequences of those discussions. The St Woolos Hospital development will provide substantial extra capacity, with two additional orthopaedic theatres and additional staff, conversion of existing accommodation into a 30 bedded ward and post operative care facility, plus some additional outpatient facilities.
- The orthopaedic ambulatory care and diagnostic centre at Llandough will be phased as planned, with the capital development commencing in April 2004. This will provide extended outpatient services, additional x-ray services, 15 overnight beds and twin theatres that will provide care for daycases and routine orthopaedic procedures with a very short length of stay. This will have the additional benefit of freeing up existing inpatient facilities to concentrate on more major joint replacements.
- As part of their existing responsibilities, I shall expect both health communities to continue to plan how they can reduce waiting times and improve access for their residents, which will involve continuously optimising efficiency and forward planning the use of physical and financial resources as part of their commissioning systems.