

Public Accounts and Public Administration Committee

NHS Wales Escalation and Intervention Arrangements

March 2022

Evidence Paper, submitted by Welsh Government

The Welsh Government welcomes the Committee's inquiry into the NHS Wales Escalation and Intervention arrangements. This evidence paper outlines the current escalation and intervention arrangements in NHS Wales and provides an update on the progress made since the fourth and fifth Senedd's inquiry into governance Issues and lessons learnt at Betsi Cadwaladr University Health Board.

The NHS Escalation and Intervention Framework

1. The current NHS Escalation and Intervention Framework was implemented in March 2014 in response to the recommendations from the 2013 PAC report (<https://gov.wales/sites/default/files/publications/2019-04/nhs-wales-escalation-and-intervention-arrangements.pdf>)
2. The escalation and intervention arrangements set out four levels:
 - I. **Routine Arrangement** – this indicates no enhanced monitoring or intervention with routine/ normal practices continuing.
 - II. **Enhanced Monitoring** – This phase is described as pro-active to put effective process in place to drive improvement in areas identified by the tripartite group.
 - III. **Targeted Intervention** – During this phase there will be co-ordinated and/ or unilateral action designed to strengthen capacity and capability of the NHS body to drive improvement.
 - IV. **Special Measures** – Current arrangement requires significant change, this could see Welsh Ministers intervening. This is considered in exceptional circumstances.
3. The principles governing escalation are:
 - The collective arrangements are predicated on effective and regular information sharing between Welsh Government and external review bodies which will be used to determine if there are serious concerns
 - The Welsh Government and external review bodies will inform the NHS body of the reasons for escalation and intervention wherever it is applied.
 - The form and extent of the action taken will be commensurate with the seriousness of the issue and the need to secure timely and effective improvement.
 - The NHS body will normally be expected to make the necessary improvements itself.

- NHS bodies will be expected to provide accurate and timely responses to requests for information, and to co-operate with action taken under these collective arrangements.
 - The Welsh Government and external review bodies will seek to co-ordinate requests for information in order to avoid placing undue burden on NHS bodies.
 - These collective arrangements are not designed to deal with individual complaints, the route for this is through existing channels such as Putting Things Right
 - The operation of these collective arrangements will be subject to regular review by the Welsh Government and external review bodies.
4. The Welsh Government and external review bodies to consider progress at regular tri-lateral Meetings. Tripartite partners have met twice a year and also held four special meetings to provide insight to the Minister on escalation levels of health bodies in Wales. The first tripartite meeting under these arrangements met in July 2014 and the most recent in February 2022.
5. Following each tripartite meeting, the Director General makes recommendations to the Minister for Health and Social Services on the escalation levels of health boards, trusts and special health authorities based on the discussions held during the meeting. All organisations are informed of their escalation status following each meeting. Where decisions are taken to alter the escalation position or concerns are highlighted then a written or oral statement may also be issued. (<https://gov.wales/written-statement-escalation-level-betsi-cadwaladr-university-health-board>)

The Current Escalation Arrangements for NHS Organisations in Wales

6. Following the tripartite meeting on the 11 February 2022, health boards, trusts and special health authority escalation levels are as follows:

Aneurin Bevan University Health Board	Routine Arrangements
Betsi Cadwaladr University Health Board	Targeted Intervention for mental health, leadership, engagement and strategy and planning
Cardiff and Vale University Health Board	Routine Arrangements
Cwm Taf Morgannwg University Health Board	Special measures for maternity, targeted Intervention for quality and governance

Digital Health and Care Wales	Routine Arrangements
Health Education and Improvement Wales	Routine Arrangements
Hywel Dda University Health Board	Enhanced Monitoring
Powys teaching Health Board	Routine Arrangements
Public Health Wales	Routine Arrangements
Swansea Bay University Health Board	Enhanced Monitoring
Velindre University NHS Trust	Routine Arrangements
Welsh Ambulance Service	Routine Arrangements

7. Maternity service in Cwm Taf Morgannwg University Health Board is currently in Special Measures with the quality and governance aspect of the organisation in Targeted Intervention. Betsi Cadwaladr University Health Board, was de-escalated from Special Measures in October 2020 and is now in Targeted Intervention for mental health, leadership, engagement and strategy and planning.
8. Cardiff and Vale University Health Board, Swansea Bay University Health Board (formally Abertawe Bro Morgannwg University Health Board) and Hywel Dda University Health Board were all placed in Targeted Intervention in July 2016. Cardiff and Vale University Health Board was de-escalated to Enhanced Monitoring in January 2019 and then to Routine Arrangements in August 2019. Swansea Bay and Hywel Dda University Health Boards remain in Enhanced Monitoring after having been de-escalated in September 2020.
9. Since the introduction of the current framework, the tripartite partners, together with health organisations, have learnt lessons through the delivery and operationalisation of the arrangements. Many things have changed as a result of this learning. There is evidence that the current arrangements show some evidence of improvement amongst those health boards that have been escalated.

Progress made since 4th & 5th Senedd's inquiry

10. Welsh Government submitted a detailed response to the 27 recommendations contained within the 'Wider issues emanating from the governance review of Betsi Cadwaladr University Health Board' report. This was supplemented with the responses from both Healthcare Inspectorate Wales (HIW) and Betsi Cadwaladr University Health Board. A summary of some of the points outlined in that response include:

11. **Independent Member's attendance at Board:** A record of attendance of Board and committee meetings forms part of the evidence for discussions at the Chair and Independent Members meetings and within performance reviews. The Local Health Boards (Constitution, Membership and Procedures) (Wales) Regulations 2009 and the respective membership regulations for the other NHS bodies sets out the for termination appointments if attendance is not to the require standard.
12. **Governance Good Practice:** Chief Executives are appointed as accounting officers with delegated responsibility for effective governance, leadership and accountability. Each organisation has a Board Secretary who has a crucial role in ensuring the ongoing development and maintenance of a strong governance framework within NHS bodies. Independent of the Board, the Board Secretary acts as the guardian of good governance within the organisation. The second edition of the Good Governance Guide was published in 2017 and this is made available to all Independent Board Members as part of their induction.
13. All newly appointed Independent Members participate in a local induction programme within their organisation and it is also a mandatory requirement for them to attend the national induction programme facilitated by Academi Wales.
14. **Independent Reviews:** Where organisations commission independent reviews of issues arising from serious concerns, we expect them to share the outcome with Welsh Government and where appropriate with the wider community, stakeholders and public. We have confirmed this with Health Boards.
15. **Concerns and complaints:** Putting Things Right provides a systematic means of looking into individual complaints and concerns. The NHS Delivery Unit and Welsh Government monitors quality and performance on a monthly basis and discusses any concerns with individual health boards at regular meetings.
16. **Ministerial Correspondence:** The Welsh Government has a government-wide database (called CABS) in place that records and tracks all Ministerial correspondence received. In relation to correspondence on health matters, any correspondence that raises concerns about quality and safety is referred to the Quality and Patient Safety team and the relevant policy team. This ensures that Welsh Government officials can identify and act on any emerging trends in respect of complaints or concerns.
17. **Terms of Departure for Senior Management:** Local health boards and trusts, acting as employers, consider all of the circumstances and options against individual employment rights and contractual obligations before making any determination regarding terms of departure for executives and senior posts. Furthermore, in the event that a termination payment is proposed they are required to consult the Welsh Government in advance.
18. **Reappointments of Independent Members:** Welsh Government continually reviews the re-appointment processes for independent members. Each request is considered on a case by case basis with advice from the Chair. The benefits of re-appointments are always balanced against the advantages of the introduction of fresh thinking to a public body and continuity to a board, as well as the skills

and experience mix of the board needed going forward. Re-appointments are agreed by the Minister for Health and Social Services based on advice from officials, having taken into account the above.

19. **Financial planning:** The statutory framework provided in the NHS Finance (Wales) Act 2014 requires health boards to prepare, on an annual basis, three year Integrated Medium Term Plans (IMTPs) that are financially balanced over the three years. The integrated approach is essential and the planning requirements cover more than just financial plans. The improved guidance and development of the NHS Wales Planning Framework has supported a growing understanding of what integrated planning looks like and how it can sustain and deliver services now and in the future.
20. The Betsi Cadwaladr University Health Board: Lessons Learnt Governance Review made three clear recommendations. All have progressed as demonstrated below:
21. **Turnaround support for Betsi Cadwaladr University Health Board:** Under the period of Special Measures, significant additional support, amounting to over £80 million was provided to the health board including investment to improve mental health and maternity services. In addition recurrent funding of £2.3 million per annum has been made available to support operational care structures. The health board has since been de-escalated from Special Measures and is now in Targeted Intervention. Improvement is required in a number of key areas, particularly in relation to:
 - Mental Health (adult and children)
 - Strategy, planning and performance
 - Leadership (including governance, transformation and culture)
 - Engagement (patients, public, staff and partners)
22. The approach to Targeted Intervention is underpinned by a maturity matrix approach, to track and evidence improvement. The Targeted Intervention comprises of a financial investment package announced on 27 October 2020 totalling £297m up to the end of 2023/24
23. **Publication of Reports:** When reports on failures in care are published the needs of those affected should be the primary concern and we need to ensure they are properly supported. Standard practice is to follow a publication and communications plan that provides the affected parties with copies of the report and expert briefing including an opportunity for them to ask questions of the authors. Health boards are expected to provide other technical and emotional support including, where needed, a helpline or access to counsellors. In line with the standard practice, journalists receive copies of reports and a briefing at the same time as affected parties at different locations. Reports are also shared with Senedd Members and other interested stakeholders.
24. There is always a need to learn lessons from the experience on handling publication of reports and ensure openness and transparency while, at the same

time, being sensitive to the needs of the people involved. This includes ensuring health boards are providing the appropriate information with the right technical and emotional support. This was reflected in how the families and staff were involved in the publication of the Royal Colleges report into maternity services at Cwm Taf.

25. **Commissioned reviews into failings within any Health Board in Wales are established independently of the Health Board in question:** This recommendation has resulted in action being taken to ensure commissioned reviews into failings are not led by the Health Board in question. This was demonstrated when the Minister for Health and Social Services asked for the Royal Colleges review into maternity services in Cwm Taf University Health Board to be commissioned and reported to Welsh Government, to avoid any conflict of interest and maintain independence.

Effectiveness of the current escalation framework

26. During the past eight years, the tripartite partners, Welsh Government, Healthcare Inspectorate Wales and Audit Wales, together with health organisations, have learnt lessons through the delivery and operationalisation of the arrangements. Many things have changed as a result of this learning and the framework has evolved accordingly.
27. The ability to convene special meetings has enabled the system to respond to immediate issues and take appropriate action.
28. Health boards have been escalated for a wide range of concerns and the nature of the escalation has helped support them to make the appropriate changes in the system.
29. However, having organisations in Special Measures for a prolonged period of time is not desirable. The longer an organisation stays in a heightened level of escalation the more it becomes the 'norm'
30. The framework as drafted is not clear about what factors would trigger a change in an organisation's status. There has been a tendency to widen the issues included under escalation rather than following due process and escalate issues in the agreed approach.

Review of the arrangements

31. Over the last 12 months, consideration has been given by the Welsh Government about the effectiveness of the current arrangements, as highlighted by some of the issues raised earlier in this paper, particularly around the need for clarity about the triggers for de-escalation or escalation.
32. Work on reviewing the arrangements has started. Firstly with a conversation with tripartite partners at two meetings in 2020 (January and August) and secondly a review was undertaken amongst all health boards and trusts in 2021. We have also done an external review on the effectiveness of escalation arrangements

33. The work undertaken so far does indicate that there is need to revise and refresh the current escalation framework. This work will commence in the next financial year and will align with our arrangements for establishing the NHS Executive.