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Health and Social Care Committee: Inquiry into the Work of Healthcare Inspectorate Wales

Submission from the Auditor General for Wales

Issued: September 2013

Document reference: 522A2013

Introductory comments

1. I am grateful for the opportunity to contribute to the Committee's inquiry into the work of Healthcare Inspectorate Wales (HIW). The Wales Audit Office and HIW work together closely on a range of matters relating to the external review of NHS bodies in Wales. In addition to this bilateral working, the Wales Audit Office and HIW, along with Estyn and CSSIW work closely together as part of a wider collaborative working programme under the aegis of the Inspection Wales initiative.
2. The evidence presented here is drawn from our experiences of our joint working with HIW, and a wider consideration of how the external review of NHS bodies in Wales needs to evolve in the context of the Francis Report following the inquiry into Mid Staffordshire NHS Foundation Trust. The evidence has been set out under two main headings:
 - HIW's fitness for purpose to deliver its functions
 - Effectiveness of collaborative working arrangements

HIW's fitness for purpose to deliver its functions

Independence

3. HIW's main functions and responsibilities are drawn from the following legislation:
 - Health and Social Care (Community Health and Standards) Act 2003
 - Care Standards Act 2000 and associated regulations
 - Mental Health Act 1983 and the Mental Health Act 2007
 - Statutory Supervision of Midwives as set out in Articles 42 and 43 of the Nursing and Midwifery Order 2001
 - Ionising Radiation (Medical Exposure) Regulations 2000 and Amendment Regulations 2006
4. HIW carries out its functions on behalf of Welsh Ministers and, although part of the Welsh Government, protocols have been established to safeguard its operational autonomy. The arrangements in place to safeguard HIW's operational independence from Ministers and the Welsh Government are important and any review of HIW's functions should ensure that these are not weakened in any way.
5. HIW has the ability to place NHS bodies under 'special measures'. Notwithstanding the fact that further clarity is needed on what constitutes special measures, it is noted that these powers are delegated to HIW and can only be enacted with Ministerial agreement. This is an arrangement that merits review given that it creates the potential to fetter HIW's ability to act autonomously, independently and swiftly should it encounter concerns at an NHS body that warrant the urgent use of special measures.

Breadth of role and capacity

6. Since its creation, HIW has taken on an increasing number of responsibilities. However, it is questionable as to whether HIW's capacity in terms of staff numbers and grade mix has grown proportionally to match these responsibilities. It is accepted that HIW will rely on a bank of peer and lay reviewers to undertake much of its direct inspection work, but it still needs a central core of staff with appropriate skills and experience to direct and manage an increasingly challenging programme of work.
7. The Committee's inquiry therefore provides a timely opportunity to review whether HIW has sufficient capacity to fully discharge its functions and responsibilities. Consideration should be given to whether it is necessary to rationalise some of HIW's functions so that they can be delivered more realistically within the resources HIW currently has. The alternative approach would be to increase HIW's capacity as part of a systematic 'form following function' review.
8. One noticeable impact of HIW's limited resources is on its ability to deliver its published programme of work¹. This programme sets out a sizeable number of thematic reviews in areas of special interest, alongside a full programme of regulatory and inspection activity. The list of thematic reviews has at times proved to be more aspirational than resource based. Capacity constraints and the need to be reactive to unforeseen incidents and concerns have made it difficult for HIW to start several of their thematic reviews within the timescales originally set out.
9. I am concerned that if HIW maintains a long and aspirational programme of reviews there will be a risk that important topics will not get considered in a timely fashion, or may be not at all. It could be that other organisations, including the Wales Audit Office, are better placed to examine these issues but will not take them forward because they appear in HIW's work programme. It is therefore vitally important that HIW maintains a realistic and confirmed programme of work so that other stakeholders are clear about their plans.
10. Furthermore, it is imperative that any plans to increase HIW's resources are considered in light of the work of other bodies that undertake external review in the NHS so as to avoid unnecessarily duplication and ensure each external review body focuses on its core purpose, as part of a coherent overall framework of external review and assurance. In that respect consideration should be given to which aspects of HIW's work offer scope for greater impact, and which HIW should consequently focus its attention on. This is considered further in the following section.

¹ Healthcare Inspectorate Wales Three Year Work Programme, 2012-2015, August 2012:
www.hiw.org.uk/Documents/477/HIW%203%20Year%20Work%20Programme%202012-2015%20-%20Final%20-%20English%20-%20PDF%20-%20Web.pdf

Maintaining a focus on core functions & building on key strengths

11. Regardless of the capacity that HIW has, consideration needs to be given to securing the best use of those resources to deliver its core function of ensuring patients receive safe, effective and high quality healthcare services.
12. HIW's work programme contains a broad base of regulatory and inspection work which collectively supports the delivery of the organisation's functions and roles. However, in the context of the shocking events uncovered at the Mid Staffordshire NHS Foundation Trust, HIW's unannounced spot checks on dignity and essential care represent for Wales a real strength that needs to be consolidated and built upon. An expansion of this approach so that it covered a wider base of healthcare settings would be a powerful way of commenting on the reality of service provision and holding organisations to account for the patient services they provide.
13. Another prominent feature of HIW's work has been its commentary on mental health services in Wales, and in particular its work to investigate some of the tragic homicides perpetrated by mental health service users. Through this work, HIW has built up an expertise that should be used more explicitly to help secure the continued development of safe and effective mental health services in Wales.
14. Conversely, HIW's role in reviewing compliance with the standards for health services in Wales is an area that perhaps offers scope for review. The standards rightly underpin HIW's inspection and regulatory work and HIW's work programme includes a commitment to undertake annual testing and validation of healthcare organisations' adoption of the standards. HIW has signalled its intention to move towards the encouragement of self-assessment by healthcare organisations. This is a sensible approach which offers a more sustainable way of embedding the standards into healthcare organisations, and enables HIW to work with other external review bodies in validating NHS bodies' self-assessments where appropriate. It is understood that HIW plan to develop a number of 'service specific modules' in areas such as end of life care, cancer services and mental health services to support this aim. To date limited progress has been made with this work, but the Wales Audit Office nonetheless looks forward to working with HIW as and when it gets rolled out.
15. The Welsh Government's response to the Francis Report² makes reference to plans to create a refreshed framework for the standards for health services. This offers the opportunity to consider and clarify the role that HIW should play in ensuring compliance with the standards, working with other external review bodies as appropriate.

² Delivering Safe Care, Compassionate Care: Learning for Wales from the Report of the Mid Staffordshire NHS Foundation Trust Public Enquiry, Welsh Government, July 2013 : www.wales.gov.uk/topics/health/publications/health/reports/safecare/?lang=en

Effectiveness of collaborative working arrangements

- 16.** HIW and the Wales Audit Office have well developed bilateral arrangements for operational joint working and information sharing. This is supported by an operational protocol³ and bi-monthly joint senior management meetings. The arrangements permit the on-going sharing of information and intelligence on NHS organisations. This provides an opportunity for both organisations to jointly consider when escalation and intervention is necessary, and in what form. The recent joint review work undertaken at Betsi Cadwaladr University Health Board⁴ is a good example of these arrangements working in practice.
- 17.** More broadly, HIW has looked to play a lead role in developing information sharing arrangements amongst the external review bodies working in the NHS through facilitating annual healthcare summits and via a Concordat Forum. The on-going development and evolution of these initiatives has, in no small part, been down to HIW's commitment and energy and their inclusive approach to the facilitation of the events.
- 18.** Along with the Wales Audit Office, Estyn and CSSIW, HIW is also part of the Inspection Wales initiative, set up to deliver the commitments set out in a joint strategic agreement⁵. This is a further example of HIW's commitment to joint and collaborative working. However, the capacity constraints identified earlier have sometimes made it difficult for HIW staff to engage fully with some Inspection Wales working groups. It should be noted, however, that this challenge is not unique to HIW.
- 19.** The positive bilateral working relationship between HIW and the Wales Audit Office provides a platform from which further joint working can be developed. One key area that would benefit from this relates to the assessment of the robustness of governance and assurance mechanisms in NHS bodies. The Public Audit Wales Act 2004 confers a duty on the Auditor General to be satisfied that NHS bodies have proper arrangements in place to secure efficiency, effectiveness and economy in their use of resources. This duty cannot be discharged without an examination of the arrangements in place for corporate governance and internal control. Similarly, HIW will rightly need to look at the extent to which organisations' clinical governance arrangements support the delivery of safe and effective services. A holistic approach to the review of governance is required as there are clear links between financial management, use of resources and quality of care, as demonstrated by the findings

³ Operational Protocol between Healthcare Inspectorate Wales and the Wales Audit Office, October 2012: www.wao.gov.uk/news/news_4874.asp

⁴ An Overview of the Governance Arrangements at Betsi Cadwaladr University Health Board, A Joint Review Undertaken by Healthcare Inspectorate Wales and the Wales Audit Office, June 2013: www.wao.gov.uk/assets/englishdocuments/Betsi_Cadwaladr_Joint_Review_HIW_and_WAO.pdf

⁵ Working Collaboratively to Support Improvement: A Strategic Agreement between the Care and Social Services Inspectorate for Wales, Estyn, Healthcare Inspectorate Wales and the Wales Audit Office, March 2011: www.wao.gov.uk/assets/englishdocuments/Strategic_Agreement_E.pdf

of the joint review work at Betsi Cadwaladr University Health Board. It could be argued that this holistic approach would be more easily achieved if it were undertaken by a single organisation. However, the joint review work at Betsi Cadwaladr University Health Board has demonstrated that HIW and the Wales Audit Office can work together seamlessly to provide a joint perspective, with the process being enriched by the different skill sets that each organisation can bring.

Concluding comments

20. The Committee's review into the work of HIW is timely given the context of the Francis Inquiry into the failings at Mid Staffordshire NHS Foundation Trust. It is vitally important that Wales has a system of external review and assurance that contributes fully to the shared goal of maintaining safe and effective NHS services. The functions delivered by HIW are central to that aim and there are specific areas where HIW has developed a unique and specialist skill set that should be built upon and further developed, alongside a programme of collaborative working with other external review bodies. That would help target HIW's finite resources on the activities that offer the greatest scope for providing the citizens of Wales with independent assurance on the quality and safety of healthcare services.

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