



DRIVING
IMPROVEMENT
THROUGH
INDEPENDENT AND
OBJECTIVE REVIEW

Communication and Information Sharing Agreement

between

Healthcare Inspectorate Wales

and

The Older People's Commissioner for Wales

September 2016

1. Revision history and approval

This document was prepared by:

Version	Date Agreed
V1.0	September 2016

Date	Document revision description	Document updated by
August 2016	Initial draft	Sarah Jones, HIW
August 2016	Minor changes to provide clarity and update contact details	Kelly Davies, OPCW
September 2016	Minor changes to provide clarity	Sarah Jones and Ruth Studley, HIW and Kelly Davies, OPCW
September 2016	Signed off	Sarah Rochira and Kate Chamberlain

1. Scope

- 1.1 This document is a communication and information sharing agreement between Healthcare Inspectorate Wales (HIW) and the Older People's Commissioner for Wales ('the Commissioner').
- 1.2 The agreement is based on a mutual understanding between HIW and the Commissioner that communicating effectively and in a timely manner and the sharing of information can benefit older people who are in receipt of health care services.
- 1.3 This agreement begins on 28/09/2016 and will be reviewed every two years.

2. The principal role of HIW

- 2.1 The role of HIW is to regulate and inspect NHS services and independent healthcare providers in Wales against a range of standards, policies, guidance and regulations to highlight areas requiring improvement.
- 2.2 This is done by:
 - Providing independent assurance on the safety, quality and availability of healthcare, by effective regulation and reporting openly and clearly on inspections and investigations
 - Encouraging and supporting improvements in care through the reporting and sharing good practice
 - Placing patient experience at the heart of HIW's inspection and investigation process; and
 - Using HIW's experience of service delivery to influence policy, standards and practice

3. The principal role of the Commissioner

- 3.1 The Commissioner is an independent advocate for older people in Wales. The main statutory functions of the Commissioner are to:

- promote awareness of the interests of older people in Wales and the need to safeguard those interests;
- promote the provision of opportunities for, and the elimination of discrimination against, older people in Wales;
- encourage best practice in the treatment of older people in Wales; and
- keep under review the adequacy and effectiveness of law affecting the interests of older people in Wales.

[Commissioner for Older People (Wales) Act 2006, s. 2]

4. Points of contact and frequency of communication

- 4.1 In order to ensure effective communication and information sharing between HIW and the Commissioner's office, points of contact for each organisation have been identified and are included at Annex 1.
- 4.2 The Chief Executive of HIW and Commissioner will meet at least annually to discuss work programmes and areas of shared interest.
- 4.3 Apart from scheduled meetings, communication and information sharing should also take place as and when matters of common interest arise. Such matters might include, but are not restricted to:
 - the sharing of information about trends, data, policy and initiatives which relate to the shared aim of ensuring that older people are provided with high quality healthcare services and that their interests are protected;
 - the pro-active sharing of reports that may be of relevance to the work of the other organisation;
 - direct case referrals where one organisation believes that the other would be in a position to assist;
 - pro-active distribution of press releases to the other organisation where the press release relates to a matter of mutual concern;

- pro-active sharing of media statements which make reference to the other organisation to ensure the accuracy of the statement about that organisation.
- 4.4 Each organisation will ensure that members of staff are aware of the content of this Communications and Information Sharing Agreement.
- 4.5 Each organisation will use reasonable endeavours to assist the other with any request, to the extent that it is reasonably practicable to do so.

5. Sharing of information

Commissioner's power to share information

- 5.1 The Commissioner is not permitted to disclose information obtained in the discharge of her functions except where authorised by section 18(3) of the Commissioner for Older People (Wales) Act 2006. In relation to this Agreement, the Commissioner may disclose information to which this section applies—
- (a) for the purpose of the discharge of any of his/her functions;
 - (d) for the purpose of an inquiry with a view to the taking of proceedings
 - (f) if the information is to the effect that a person is likely to constitute a threat to the health or safety of one or more persons and the disclosure is to a person to whom the Commissioner thinks it should be disclosed in the public interest.
- 5.2 Even where the disclosure of information is permitted by 18(3) the condition in 18(4) must be met that the disclosure is: -
- (a) appropriate for the purpose of the discharge by the permitted person [HIW employees are permitted persons by virtue of 18(9)] of any of his functions; and
 - (b) in the public interest.

Commissioner's power to require disclosure of information

5.3 The Commissioner also has the power to require the disclosure of information under regulation 4 of Commissioner for Older People in Wales Regulations 2007 as follows. Under regulation 4 the Commissioner can require any person prescribed under paragraph (2) to disclose information which the Commissioner considers necessary or expedient to have for the purpose of: -

(a) reviewing arrangements in relation to advocacy, complaints or whistle blowing;

(b) assessing the effect of failure of any person to make such arrangements;

(c) determining whether a recommendation made in a report following a review has been complied with.

By virtue of paragraph (2), HIW employees are prescribed persons for the purpose of regulation 4. It also includes former employees.

5.4 The Commissioner has the power therefore to disclose information to and require information from HIW under the Commissioner for Older People (Wales) Act 2006. This agreement is designed to supplement and assist in understanding those information sharing powers.

5.5 In sharing information under this agreement, HIW and the Commissioner will at all times comply with their respective obligations under the Data Protection Act 1998.

5.6 Where either the Commissioner or HIW receive personal data under the terms of this agreement and will be holding and using that data for its own purposes, the receiving organisation will become a "data controller" of the information for the purposes of the DPA and will handle the information in question accordingly.

5.7 Where either the Commissioner or HIW is provided with information relating to an identifiable individual so that the receiving organisation can process that information on behalf of

the disclosing organisation, the receiving organisation will be a “data processor” for the purposes of the DPA and will:

- use the data only in accordance with the instructions of the disclosing party*;
- ensure that all appropriate organisational measures are in place to protect the data from unauthorised or unlawful use or accidental loss, destruction or damage; and
- ensure that all employees who may have access to the data are aware of their duties under the DPA.

*Where section 18 (3) (f) of the Commissioner for Older People (Wales) Act 2006 is applied by the Commissioner then best efforts will be made to make HIW aware of the intention to disclose.

- 5.8 Should HIW need to disclose any information received from the Commissioner to a third party, the Commissioner’s permission to use and/or disclose the shared information will be sought.
- 5.9 In sharing information under this agreement, HIW and the Commissioner will at all times comply with their respective obligations under the Human Rights Act 1998 (Article 8 establishing the qualified right to respect for private and family life). This underscores the duty both organisations have to protect individual privacy and preserve the confidentiality of records containing personal information. Any proposal for setting aside obligations of confidentiality through legislation must pursue a legitimate aim; be considered necessary in a democratic society; and be proportionate to the need.
- 5.10 HIW and the Commissioner acknowledge that they are subject to the Freedom of Information Act 2000 (FOIA) and that under the terms of FOIA they may be obliged to disclose information provided under the terms of this agreement. They agree to consult each other in the event a request is received under FOIA for information, disclosure of which would be likely to affect each other’s interests.
- 5.11 When sharing information under this agreement, the Commissioner and HIW will at all times act in accordance with all

the relevant tiers of the Wales Accord on the Sharing of Personal Information (WASPI).

- 5.12 In addition to these obligations, HIW and the Commissioner engage in external communication on the broad range of their activities and will use best endeavours to give prior notice to each other of publicity or other activity that is likely to be of interest.
- 5.13 Ownership of shared information remains with the originating organisation at all times.
- 5.14 Annex 2 sets out the parameters and requirements for information sharing. This should cover every instance where information, data or knowledge needs to be shared between HIW and the Older People's Commissioner for Wales.

6. Review

This agreement will be reviewed every two years.

7. Reconciliation of disagreement

Each organisation will seek to resolve any disagreements amicably at an operational level. Where it cannot be resolved then the issue will be escalated as set out in Annex 1.

Signed: 

Date: 27 September 2016

Dr Kate Chamberlain, Chief Executive, Healthcare Inspectorate Wales

Signed: 

Date: 27 September 2016

Sarah Rochira, Older People's Commissioner for Wales

Annex 1

There will be specific points of contact between Healthcare Inspectorate for Wales and the Commissioner as follows:

Healthcare Inspectorate for Wales	Older People's Commissioner
Healthcare Inspectorate Wales Welsh Government Rhydycar Business Park Merthyr Tydfil CF48 1UZ Tel: 0300 062 8163 E-mail: hiw@wales.gsi.gov.uk Website: www.hiw.org.uk	The Older People's Commissioner for Wales Cambrian Buildings Mount Stuart Square Cardiff CF10 5FL Tel: 029 2044 5030 E-mail: ask@olderpeoplewales.com Website: www.olderpeoplewales.com
Dr Kate Chamberlain Chief Executive Email: Kathryn.Chamberlain@wales.gsi.gov.uk	Sarah Rochira The Older People's Commissioner for Wales Email: sarah.rochira@olderpeoplewales.com

Lead Officers	
<p>Sarah Jones Head of Corporate Intelligence and Development Email: sarah.jones3@wales.gsi.gov.uk Tel: 0300 062 8383</p>	<p>Kelly Davies Director of Corporate Affairs Email: kelly.davies@olderpeoplewales.com Tel: 029 2044 5055</p>
Media	
<p>Natalie Jones Communications and Engagement Manager Email: HIWcomms@wales.gsi.gov.uk Tel: 0300 062 8163</p>	<p>Richard Jones Head of Communications Email: richard.jones@olderpeoplewales.com Tel: 029 2044 5040</p>
Reconciliation of Disagreements	
<p>Ruth Studley Director of Strategy & Development Email: ruth.studley@wales.gsi.gov.uk Tel: 0300 062 8382</p>	<p>Kelly Davies Director of Corporate Affairs Email: kelly.davies@olderpeoplewales.com Tel: 029 2044 5055</p>

Annex 2 – Information to be Shared

Information Owner	Information to be Shared	Business Need for Sharing	Frequency of Sharing	Protective Marking	Method of Sharing (to include media and individuals involved)	Additional Information