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yn derbyn gofal da

Checking people in Wales are
receiving good care



Memorandum of Understanding between:

Healthcare Inspectorate Wales

and

the Health and Care Professions Council

January 2018

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Version control

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Date	Document revision description
January 2018	Draft v1.0 finalised by Huw Jones (HIW) and Eva Hales (HCPC)
January 2018	Agreed and signed by Kate Chamberlain (HIW)
January 2018	Agreed and signed by Marc Seale (HCPC)

Introduction

1. The purpose of this Memorandum of Understanding (MoU) is to set out a framework for a working relationship between Healthcare Inspectorate Wales (HIW) and the Health and Care Professions Council (HCPC).
2. The working relationship between HIW and the HCPC is part of the maintenance of an assurance system for healthcare that promotes patient safety and high quality healthcare services provided across the United Kingdom.
3. Both HIW and the HCPC are committed to exploring ways to develop more effective and efficient partnership working to promote quality and safety within their respective regulatory remits.
4. HIW is the independent inspectorate and regulator of healthcare in Wales.
5. The HCPC is the independent regulator in the United Kingdom for the 16 professions listed below:

Art therapists	Orthoptists
Biomedical scientists	Paramedics
Chiropodists / podiatrists	Physiotherapists
Clinical scientists	Prosthetists / Orthotists
Dietitians	Radiographers
Hearing aid dispensers	Practitioner psychologists
Occupational therapists	Social Workers (in England)
Operating department practitioners	Speech & language therapists

The individual responsibilities and functions of HIW and the HCPC are set out at [Annex A](#) to this MoU.

6. This MoU does not override the statutory responsibilities and functions of HIW and the HCPC and is not enforceable in law. However, HIW and the HCPC are committed to working in ways that are consistent with the content of this MoU.

Principles of cooperation

7. HIW and the HCPC intend that their working relationship will be characterised by the following principles:
 - a. The need to make decisions that promote high quality healthcare and which protect and promote patient health, safety and welfare.
 - b. Respect for each organisation's independent status.
 - c. The need to maintain public confidence in the two organisations.
 - d. Openness and transparency between the two organisations in those areas of cooperation considered necessary and appropriate and outlined in paragraph 9 of this MoU.

- e. The need to use resources effectively and efficiently.
8. HIW and the HCPC are committed to observing the principles for an effective regulatory system for healthcare as identified by the Professional Standards Authority: <http://www.professionalstandards.org.uk/docs/default-source/publications/thought-paper/right-touch-regulation-2015>).

Areas of cooperation

9. The working relationship between HIW and the HCPC involves cooperation between the two organisations to assist with individual regulatory activities and processes in the following areas:
- cross-referral of emerging and/or urgent concerns;
 - sharing of registrant fitness to practise information upon direct request by either organisation;
 - sharing of feedback about particular health or adult social care providers upon direct request by either organisation;
 - sharing of intelligence to inform regular organisation-wide strategic events including biannual healthcare summits in Wales;
 - giving prior notice about any planned media announcements or publications that the other may need to know of; and
 - joint working projects relevant to each organisation's statutory powers.

Cross-referral of concerns

10. Where HIW or the HCPC encounters a concern which it believes falls within the remit of the other, they will at the earliest opportunity convey the concern and relevant information to the respective MoU Lead Officer named in [Appendix 1](#) by following the process outlined in the Joint Operating Protocol in [Annex B](#). In the interests of patient safety or protection, the referring organisation will not wait until its own investigation has concluded.
11. In particular, HIW will share with or refer to the HCPC:
- a. Any concerns and relevant information known about any of its registrants which may call into question their fitness to practise, or about any individuals when it is suspected that they are using a protected title (or implying that they are a member of one of the professions regulated by HCPC) however they are not registered with the HCPC.
 - b. Any concerns and relevant information known about a healthcare organisation which may call into question its suitability as a learning environment for students from any of the professions regulated by the HCPC.

- c. Any information about an individual purporting to be from any of the professions regulated by the HCPC where HIW has reason to believe that that person is not on the HCPC Register.
 - d. Any concerns and relevant information, such as serious failings in professional leadership, supervision, case load management, training, safeguarding or other related factors that could affect the general delivery of care or services at a healthcare organisation in which any HCPC registrant practices.
12. In particular, the HCPC will refer to HIW:
- a. Any concerns and relevant information known about a healthcare organisation in which an HCPC registrant practises or registrants are trained that falls under the remit of HIW;
 - b. Any concerns and relevant information known about a healthcare organisation falls under the remit of HIW regarding the suitability of its supervision practices and /or learning environments for students from any of the professions regulated by the HCPC;
 - c. Information about any investigations it conducts which raise concerns about poor team working, leadership, systemic record keeping issues, appraisal systems and general organisational failures in a healthcare organisation that falls under the remit of HIW;
 - d. Any concerns and relevant information known about a registrant of the HCPC working as a HIW Registered Manager in a healthcare organisation registered with HIW that may call into question their suitability to perform their functions in that setting.

Exchange of information

- 13. Cooperation between HIW and the HCPC will often require the exchange of information. All arrangements for collaboration and exchange of information set out in this MoU and any supplementary agreements will take account of and comply with the Data Protection Act 1998, the Health and Social Work Professions Order 2001, and any HIW and HCPC codes of practice, frameworks or other policies relating to confidential personal information.
- 14. HIW and the HCPC will only use the information they receive from each other for the purpose of discharging their statutory functions.
- 15. This MoU is supplemented by a separate Joint Operating Protocol at [Annex B](#) which sets out the detailed arrangements for sharing information between the parties. Both HIW and the HCPC are subject to the Freedom of Information Act 2000. If one organisation receives a request for information that originated from the other, the receiving organisation will discuss the request with the other before responding. However, the ultimate decision on the release of information will remain with the information owner (the organisation that has been requested to release it).

Wales Concordat Cymru

16. HIW and the HCPC are members of the Wales Concordat Cymru forum of bodies inspecting, regulating, and auditing health and social care in Wales. HIW and the HCPC have agreed to work together with the other bodies to improve services for patients, service users, and their carers whilst eliminating unnecessary burdens of external review on front line staff.

Resolution of disagreement

17. Any disagreement between HIW and the HCPC will normally be resolved at working level. If this is not possible, it may be referred through those responsible for the management of this MoU, up to and including the Chief Executive of HIW and the Chief Executive and Registrar of the HCPC who will then jointly be responsible for ensuring a mutually satisfactory resolution.

Duration and review of this MoU

18. This MoU commences on the date of signatures below. It is not time-limited and will continue to have effect unless the principles described within need to be altered or cease to be relevant. The Annexes may be reviewed more regularly. The MoU may be reviewed urgently at any time at the request of either party, but changes will require agreement by both organisations.
19. Both organisations have identified a Lead Officer in [Appendix 1](#) who will be responsible for the management of this MoU. The Lead Officers will liaise as required to ensure this MoU is kept up to date and to identify any emerging issues in the working relationship between the two organisations.

Signatures



Dr Kate Chamberlain
Chief Executive
Healthcare Inspectorate Wales



Marc Seale
Chief Executive and Registrar
Health and Care Professions
Council

Date: January 2018

Date: January 2018

Annex A: Responsibilities and functions

1. Healthcare Inspectorate Wales (HIW) and the Health and Care Professions Council (HCPC) acknowledge the responsibilities and functions of each other and will take account of these when working together.

Healthcare Inspectorate Wales

2. Healthcare Inspectorate Wales (HIW) is the independent inspectorate and regulator of healthcare in Wales.
3. 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. 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; and
 - the Independent Health Care (Wales) Regulations 2011.
4. HIW's work is structured to support the delivery of activities across three key areas:
 - Regulation of independent healthcare;
 - Inspecting the NHS; and
 - Mental health.
5. The collective combination of these activities supports HIW's three priorities to:
 - Provide an independent view on the quality of care;
 - Encourage improvement through reporting and sharing of good practice; and
 - Use what we find to influence policy, standards, and practice.
6. HIW's core role is to review and inspect NHS and independent healthcare organisations in Wales to provide independent assurance for patients, the public, and others that services are safe and of good quality. Services are reviewed against a range of published standards, policies, guidance and regulations. As part of this work, HIW will seek to identify and support improvements in services and the actions required to achieve this. If necessary, HIW will undertake special reviews and investigations where there appears to be systematic failures in delivering healthcare services to ensure that rapid improvement and learning takes place.

The Health and Care Professions Council

7. The Health and Care Professions Council (HCPC) is the regulator of 16 professions:

Arts therapists	Orthoptists
Biomedical scientists	Paramedics
Chiropodists / podiatrists	Physiotherapists
Clinical scientists	Prosthetists / Orthotists
Dietitians	Radiographers
Hearing aid dispensers	Practitioner psychologists
Occupational therapists	Social Workers (in England)
Operating department practitioners	Speech & language therapists

8. The responsibilities and functions of the HCPC are set out in the Health and Social Work Professions Order 2001 (the Order). The Order protects one or more designated titles for each of the relevant professions and anyone using one of those titles must be registered with the HCPC. Misuse of a title is a criminal offence.
9. Under the Order the principal functions of the HCPC are to establish standards of education, training, conduct and performance for members of the relevant professions and to ensure the maintenance of those standards. It does this by:
- setting standards, including Standards of Proficiency, Standards of Conduct, Performance and Ethics and Standards of Education and training;
 - approving education programmes and qualifications which meets its standards;
 - maintaining a register of appropriately qualified professionals; and
 - investigating and adjudicating complaints about their fitness to practise.
10. The main objective of the HCPC in exercising its functions shall be to safeguard the health and well-being of persons using or needing services of registrants.
11. The HCPC also has a duty to co-operate, with, inter alia, bodies concerned with the regulation, or the co-ordination of the regulation, of other health and social care professionals, the regulation of health services, and the provision, supervision or management of health or education service.

Annex B: Joint Operating Protocol

This protocol sets out the details of how HIW and the HCPC work together to operationalise the Memorandum of Understanding (MoU) in the following areas:

1. Key communication routes between HIW and the HCPC;
2. When and how information is shared; and
3. Media and publications.

This protocol is designed to work alongside, and not separately from, existing processes in each organisation and, where relevant, reflects these for the benefit of staff and management.

The persons in each organisation responsible for the MoU will oversee the application of the protocol. The protocol is not time limited and will continue to have effect unless any section needs to be altered or ceases to be relevant.

1. Key communication routes between HIW and HCPC

HIW and the HCPC have different structures. To make sure that there is always a clear point of contact and to record information sharing between the two organisations effectively, each organisation should use the following email address:

- The HCPC approaching HIW (Corporate Intelligence and Development Team): HIW.CID@gov.wales
- HIW approaching the HCPC (Assurance and Development Team): ad@hcpc-uk.org.

The email addresses should be used both to request information and to refer concerns. The email addresses are also an important component of how the exchange of information will be monitored and how the outcomes and effectiveness of the relationship will be evaluated. If a direct relationship already exists between HIW and the HCPC in relation to a matter, staff can email contacts directly, but should also copy in the relevant email address.

Key contacts within each organisation are attached at [Appendix 1](#).

2. When and how information is shared

HIW and the HCPC will share information with each other through planned activities and when there is a need to respond to emerging, urgent concerns, as outlined below.

2.1. Emerging or urgent concerns

Emerging or urgent concerns that may present a danger to the safety of people using healthcare services and where those concerns are considered to be relevant to the other organisations' regulatory functions need to be shared promptly.

Information for HIW and HCPC staff on when and how to make a referral to the other organisation is detailed here.

Information for HIW staff on making referrals to the HCPC

The HCPC regulates the following health and social care professionals:

Arts therapists	Orthoptists
Biomedical scientists	Paramedics
Chiropodists / podiatrists	Physiotherapists
Clinical scientists	Prosthetists / Orthotists
Dietitians	Radiographers
Hearing aid dispensers	Practitioner psychologists
Occupational therapists	Social Workers (in England)
Operating department practitioners	Speech & language therapists

All of these professions have at least one professional title that is protected by law, including those shown above. This means that anyone using the titles must be registered with the HCPC. An individual's registration status can be checked by searching the Register on the HCPC's website: [HCPC - Health and Care Professions Council - The Register](#).

What concerns are appropriate?

Unregistered individuals – referring a concern to the HCPC is appropriate when you suspect that an individual is using a protected title (or implying that they are a member of one of the professions) however they are not registered with the HCPC. Further guidance on protection of title can be found on the HCPC's website: [HCPC - Health and Care Professions Council - Protection of title](#).

Registered individuals (registrants) - referring a concern to the HCPC is appropriate when the conduct, performance or health of a registrant raises potential issues about their fitness to practise. A registrant is 'fit to practise' when they have the skills, knowledge and character to practise their profession safely and effectively. Further guidance about raising a concern about a registrant can be found on the HCPC's website: [HCPC - Health and Care Professions Council - Complaints](#).

Suitability of learning environments – referring a concern to the HCPC is appropriate when the quality of a healthcare organisation calls into question its suitability as a learning environment for students for any of the professions regulated by the HCPC. An environment is suitable for use by an approved programme when it meets the requirements of our standards of education and training. Further guidance about raising a concern about a learning environment can be found on the HCPC's website: [HCPC - Raising a concern about an approved programme](#).

Consider the reasons for referring your concerns and discuss them with your manager or Head of Branch first. It is important to establish whether:

- local action has been taken;

- the employing organisation or agency has already investigated the concern or is in the process of doing so; and
- the employing organisation or agency has already made a referral to the HCPC.

Local action or an existing referral should not preclude HIW referral to the HCPC. HCPC processes often take place alongside any local action. Where a referral has already taken place, additional information can usefully support any investigation.

You can also ask for advice from the MoU Lead Officer (see [Appendix 1](#)).

Once you have decided to refer a concern to the HCPC you should complete an HCPC '[reporting a fitness to practise concern](#)' form and forward it to the MoU Lead Officer (see [Appendix 1](#)).

The HCPC should provide feedback by informing the MoU Lead Officer whether any activity will be undertaken. If the HCPC undertakes activity, The HCPC will provide the MoU Lead Officer with update/s on the activity and the final outcome.

Information for HCPC staff on making referrals to HIW

HIW's organisational purpose is to check that people in Wales are receiving good care; this is achieved through the regulation and inspection of NHS services and independent healthcare organisations in Wales against a range of standards, policies, guidance and regulations to highlight areas requiring improvement.

System concerns about patient safety, quality of care or education and training practices may emerge during a fitness to practise investigation or education inspections on registrants or healthcare organisations in Wales.

If you are not sure whether to refer a system concern to the Operations Team for consideration for referral to HIW, you should speak to your manager.

Step	Activity
1	A HCPC function (for example, case management or a Panel) identifies an issue that may require referral to HIW. The issue is forwarded to the Operations Team via the Assurance and Development inbox: ad@hcpc-uk.org .
2	An Assurance and Development Officer reviews the information as soon as possible and makes a recommendation to an Assurance and Development Manager as to whether a referral is required.
3	If the Assurance and Development Manager decides a referral should be made, an Assurance and Development Officer should make a referral via email to the MoU Lead Officer (see Appendix 1).
4	HIW should provide feedback by informing the MoU Lead Officer whether any activity will be undertaken. If HIW undertakes activity, HIW will provide the MoU Lead Officer with update/s on the activity

and the final outcome.

All documents in relation to the HCPC's decision making on referrals to HIW are added to the case on the relevant system. Any feedback or updates received from HIW to HCPC on a particular referral should also be added to the case on the system.

The HCPC keeps a separate audit trail of the referrals it makes to HIW and the outcome of those referrals. It can therefore report on the referrals it makes. The reports will be discussed as appropriate at appropriate forums at the HCPC.

2.2 Sharing of fitness to practise information

The HCPC is committed to sharing the information it publishes about the fitness to practise of individual registrants with HIW. Information about a registrant's health is always kept confidential.

The HCPC publishes information on its external website about upcoming hearings including details of concerns (<https://www.hcpts-uk.org/hearings/upcoming>) and issues a media schedule of fitness to practise hearings (<https://www.hcpts-uk.org/hearings/mediareleases>).

In addition, the HCPC publishes information about the sanctions it has imposed when its registrants are not fit to practise (<https://www.hcpts-uk.org/hearings/recentdecisions>).

The HCPC agrees to share more detailed information where this is requested by HIW. Requests for information should be sent to the MoU Lead Officer at the HCPC.

HIW routinely publishes reports of its findings arising from inspection visits. HIW agrees to share more detailed information supporting those findings where this is requested by the HCPC. Requests for information should be sent to the MoU Lead Officer at HIW.

2.3 HIW Healthcare Summits

Twice a year, HIW run healthcare summits to enable audit, inspection, regulation and improvement bodies to share intelligence on the quality and safety of healthcare services provided by NHS Wales.

Before each summit, HIW will contact HCPC to see if they hold any relevant intelligence on NHS organisations in Wales. If so, the HCPC will provide the information prior to the meeting where possible.

2.4 Evidence to parliamentary committees: central government

HIW and HCPC will, when appropriate (and subject to the standard rules on parliamentary hearings and engagements), share with each other details of

evidence provided to any parliamentary committees in relation to the operation of the regulatory regime or the exercise of their functions.

2.5 Joint working

HIW and the HCPC may, by agreement, undertake joint regulatory or strategic work, relevant to each body's statutory powers. If and when HIW and the HCPC decide to undertake joint work, a joint working statement will be developed setting out the specific detail and arrangements for that work. Throughout such work HIW and the HCPC will retain and exercise their own statutory powers. This work could include:

- joint reviews of information about a healthcare organisation;
- site visits to a healthcare organisation;
- the co-production of documents and reports and the coordination of any follow up action planning to address any recommendations;
- the joint production of research and analysis reports;
- joint public responses to external policy developments; and
- joint guidance or position statements.

3 Media and publications

HIW and the HCPC will seek to give each other adequate warning of and sufficient information about any planned announcements to the public that the other may need to know of.

Each organisation will involve the other as early as possible in the development of planned announcements, including the sharing of draft proposals and publications, which may affect both regulators.

HIW and the HCPC respect confidentiality of any documents shared in advance of publication and will not act in any way that would cause the content of those documents to be made public ahead of the planned publication date.

Appendix 1: Contact details

Organisational details:

Healthcare Inspectorate Wales Rhydycar Business Park Merthyr Tydfil CF48 1UZ Telephone: 0300 062 8163	Health and Care Professions Council Park House 184 Kennington Park Road London SE11 4BU Telephone: 0845 300 6184
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There will be specific points of contact between HIW and the HCPC as follows:

MoU Lead Officers

HIW	HCPC
Huw Jones Corporate Intelligence Analyst Email: huw.jones@wales.gsi.gov.uk Tel: 0300 0255 996	Eva Hales Assurance and Development Manager Email: eva.hales@hcpc-uk.org Tel: 0207 840 9742

Media:

HIW	HCPC
Natalie Jones Communications and Engagement Manager Email: HIWcomms@wales.gsi.gov.uk Tel: 0300 062 8382	Grant Imlach Media and PR Manager Email: grant.imlach@hcpc-uk.org Tel: 0207 840 9784

Reconciliation of Disagreements (internal escalating policies should be followed before referral to Chief Executives):

HIW	HCPC
Dr Kate Chamberlain Chief Executive Email: kate.chamberlain@wales.gsi.gov.uk	Marc Seale Chief Executive Email: marc.seale@hcpc-uk.org