27th April 2020

Dear Responsible/Approved Clinician/Mental Health Act Administrator

**COVID-19: Methodology for Second Opinions**

As a result of the present COVID-19 pandemic, HIW has already produced revised guidance for a methodology which enables the SOAD service to continue to be accessible and effective during the pandemic.

For the duration of the pandemic, we will not be undertaking visits to hospitals and other locations where there are patients, as we apply and adhere to UK Government guidance and law. “Working from home” is the guiding principle. This minimizes risks to patients and staff in hospitals, to SOADs and particularly wider society. “Stay at home, protect the NHS, Save lives”.

This letter is to emphasize the new methodology and its purpose and effect, and to provide some additional clarification and guidance. Also supplied is an FAQ document attached at **Annex B.**

**Summary of the Covod19 pandemic methodology:**

1. The guidance issued earlier this month indicates what information to send to HIW electronically. Due to non-visiting, an electronic copy of a electronically sourced case notes are feasible. Copies of prescription charts scanned in are also feasible to send electronically. An available Responsible/Approved Clinician report on the patient is acceptable and feasible to be sent electronically. We also would request a statement the patient is still detained (HO14 form or similar). The SOAD forms completed for liable to be detained patients and those on CTOs should be completed in the usual way and sent to HIW. If there are no summary sources of information such as MHRT or Managers reports a summary may be necessary and particularly covering subjects of capacity, consent and refusal about treatment and the patients views and proposals for other treatments what other treatments have been considered and the effectiveness and risks of the proposed treatment plan. That summary information should be germane as to either/or both Medication and ECT, depending on the purpose of the SOAD opinion required. Issues of capacity, consent and refusal will be particularly concentrated upon to fill in the relevant CO form appropriately.
2. Consultations with a professionals, including with the responsible clinician, will be undertaken by telephone or video ( e.g. skype).
3. For telephone or video consultations with patients , we ask services to support patients who want to and / or agree to speak with SOADs to have access to telephones or technology to support a video call with the SOAD if practical. This should be done in direct liaison with the SOAD.
4. SOADs will not be asked to post original copies of certificates. We encourage services to accept electronic copies of certificates, without wet signatures, and act on them. A paper copy can be available after the epidemic with a wet signature the SOAD having submitted the form to the provider and also to HIW.

**Further Guidance on remote SOAD methodology: Documentation**

When submitting a Second Opinion Request, we have already defined the 4 criteria we would ask you to submit, please see our earlier guidance which can be found at HIW website. Please also attach a summary document outlining the current issues.

We request three months copies of daily entries electronically were possible. Also, originated in e-clinical notes may be

* a recent admission summary; or
* a CTP Meeting or WARRN report or the document itself from the latest CTP or WARRN review. ( or other risk assessment available if relevant)

If an MHRT or manager’s report does not exist then the above information also mitigates this but an admission summary and CTP meeting as well are probably not necessary. The latest WARRN is also very useful.

A discussion about capacity, consent and also refusal and objection about treatment will be conducted by the SOAD in all instances (as the indications are of information from Statutory Consultees in the MHA Code of Practice for Wales) will mitigate if it is difficult to obtain any of the above sources of information asked for, and or the inability to interview the patient. Significant physical health issues have to be addressed, and should be indicated on the SOAD request form.

The SOAD will use the above data as a proxy for the clinical notes, when not practical to provide, which they would otherwise have accessed on a visit.

**Patient Interview**

Patients should be informed that a SOAD would provide an opinion from the time one is sought rather than later upon the SOAD commencing the formulation of their opinion.

Providers are asked to arrange directly with the SOAD a telephone or, where possible, skype consultation for any patients who wish to consult a SOAD. SOADS have always had the discretion as to whether or not to proceed with the second opinion if the patient refuses to see them or speak with them, for example where the patient may decline to see the SOAD in the pre pandemic situation.

**Digital CO forms**

We encourage services to accept an emailed electronic copy of a certificate as sufficient for action. In instances where this is not acceptable, we will review and see whether it is safe for a SOAD to visit, however, more likely we would advise s62 or 64g be used until such time as it is safe and appropriate for a SOAD to supply a hard copy of the CO form.

We recognise that there is a debate as to the legal validity of electronic signatures in MHA statutory documents, however it is anticipated that Government may shortly lift the requirement for paper copies.

We are not expecting SOADs to go to post offices or use Royal Mail postal services for the duration of the emergency. We ask that services accept an emailed electronic copy of the SOADs original wet ink signed paper copy as sufficient for action.

SOADs will continue to produce and retain the paper copies and we will notify services as soon as we have a clear position on this.

**Where the revised procedures cannot be implemented.**

There may be circumstances where SOADs are unable to obtain the information necessary to reach a justifiable decision and legally defendable decision regarding certification of treatment. The SOAD may wish to discuss the problems with the Lead SOAD wales or others in HIW as to the way forward but in any event section 62 or 64G is available to the Responsible /Approved Clinician. Please see **Annex A** below for reference.

If you have any questions about this process or make suggestions about the changes please email:

 RSMH@gov.wales, Robbie.Jones@gov.wales or John.Powell@gov.wales.

Yours Sincerely

HIW

**Annex A**

**Urgent cases where certificates are not required (sections 62, 64B, 64C and 64E)**

Sections 57, 58 and 58A do not apply in urgent cases where treatment is immediately necessary (section 62). Similarly, a part 4A certificate is not required in urgent cases where the treatment is immediately necessary (sections 64B, 64C and 64E).

This applies only if the treatment in question is immediately necessary to:

1. save the patient’s life
2. prevent a serious deterioration of the patient’s condition, and the treatment does not have unfavourable physical or psychological consequences which cannot be reversed

*If the treatment is ECT (or medication administered as part of ECT) only the first two categories above apply.*

1. alleviate serious suffering by the patient, and the treatment does not have unfavourable physical or psychological consequences which cannot be reversed and does not entail significant physical hazard, or
2. prevent patients behaving violently or being a danger to themselves or others, and the treatment represents the minimum interference necessary for that purpose, does not have unfavourable physical or psychological consequences which cannot be reversed and does not entail significant physical hazard.

Providers and clinicians will need to consider two options where attendance of a SOAD is either not possible or not desirable and treatment must be continued;

1. **If the patient already has a CO form in place, but the form does not authorize a new/different treatment then s62(1) may apply**. That is what most provider clinicians will be familiar with – completion of a locally-generated s62 form which for medication and ECT has no inherent time limit. Section 62 decisions should have review evidence eg at each ward round.
2. **If the patient does not have a CO form for medication but has reached the end of the ‘3 month rule’, then s62(2) may be applicable**. This will allow the continuation of an existing plan of treatment until the ‘certificate requirements’ can be met, when a SOAD can review the treatment or until the patient’s condition improves such that they can and do consent and a CO2 can be completed.

Although in the event that s62(2) is deemed applicable, no special form is necessary – it will be sufficient for the AC/RC to record in the notes that the treatment is being continued past the 3 month period under s62(2), together with the justification (either *(c)* or *(d)* above) and the reason – unavailability of SOAD due to COVID19 however it is recognised practice Wales that a section 62 form is completed in such circumstances. Regular review of the continuing need for medication should take place and be documented as described above.

c) **similar rules apply to ECT as per section 62** but only in circumstances subsection 1a and 1b and once again to emphasize section 62 has no inherent time limit although it is established practice in wales to do a section 62 local form each time ECT is to be given.

d) **Triggering of the certification as in the Corona virus Act** **It may be helpful for the record of discussion forms that statutory consultees** have with SOADs to be made more available to RC/ACs for both medication and ECT if there is a problem about obtaining a SOAD opinion especially if the processes are triggered within the Coronavirus Act relating to SOADs and ACs ‘certifying’ although in Wales is envisaged that section 62 and 64G will provide sufficient mechanism and way forward for the administration of medication and ECT in the countrywide emergency hence creating a clinical emergency.