

MEMORANDUM OF UNDERSTANDING
BETWEEN
HEALTHCARE INSPECTORATE WALES
&
THE PUBLIC SERVICES OMBUDSMAN FOR WALES

Version Number: 1.0
Date agreed: 5 April 2016

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ii. Revision History and Approval

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1.0	5 April 2016

Date	Document revision description	Document updated by
12 May 2015	Initial draft	Geraint Jones
24 September 2015	HIW initial track changes	Darren Hatton
9 October 2015	PSOW amendments following discussion	Geraint Jones
9 March 2016	HIW track changes and comments - to be discussed at PSOW/HIW catch-up meeting	Darren Hatton
18 March 2016	HIW accepted track changes after PSOW/HIW catch-up and introduction of new track changes	Darren Hatton
22 March 2016	PSOW minor track change and contact details added. HIW track changes accepted. Signed off by PSOW.	Geraint Jones
24 March 2016	HIW accepted track change and contact details.	Darren Hatton
5 April 2016	Version 1 sign off at meeting between Nick Bennett and Kate Chamberlain.	Darren Hatton

1. Introduction

- 1.1 The aim of this Memorandum is to set out the agreement reached by the Healthcare Inspectorate Wales (HIW) and the Public Services Ombudsman for Wales (PSOW) in relation to co-operation and the exchange of information. This Memorandum does not affect the existing statutory functions of the respective organisations or the exercise of those functions; neither does it amend any other policies or agreements relating to their activities. It does not imply any transfer of responsibility from one to the other, nor does it imply any sharing of statutory responsibilities except where this is permitted by statute.
- 1.2 PSOW has statutory powers in relation to HIW in that the Welsh Government is a listed authority under the Public Services Ombudsman (Wales) Act 2005. The PSOW will respond to any complaint about HIW in accordance with the Act and its own policies and procedures. Complaints about or involving the action or inaction of HIW are therefore not affected by this Memorandum and such complaints will be investigated in the same way as complaints to the PSOW about other bodies.
- 1.3 It is not intended that this Memorandum should be legally binding. However, HIW and PSOW agree to adhere to its principles and to show proper regard for each other's activities and work together to support promote improvement in healthcare services in Wales.

2. Co-operation

- 2.1 The overarching aim of both bodies is to contribute to the continuous improvement in NHS healthcare services in Wales, that ensure relevant standards are met.
- 2.2 Both bodies have an interest in the performance of Health Boards and Trusts in Wales and both bodies may be involved in considering the care provided by independent service providers.
- 2.3 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. 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.

- 2.4 Where the Ombudsman concludes that an aggrieved person has sustained injustice or hardship as a result of a complaint that he has considered then he normally makes recommendations to address any concerns identified.
- 2.5 PSOW and HIW will work together to ensure that the best placed organisation leads any collaborative work. Where serious harm occurs or a serious concern arises which may lead to significant harm in a healthcare setting, both organisations will liaise with each other at an early stage to ensure that there is one lead organisation. Both organisations will aim to co-ordinate any follow-up so that the right people and organisations are approached to support improvement.

3. Equality and Human rights

- 3.1 The need to act in a manner that is compatible with Convention Rights, as described in s. 1 of the Human Rights Act 1998, is fundamental to the work of HIW and PSOW. Each organisation seeks to promote the human rights of those who fall within its remit.
- 3.2 The Equality Act 2010 prohibits unfair treatment of people because of protected characteristics they have and helps achieve equal opportunities.
- 3.3 The co-signatories to this Memorandum believe that the arrangements as set out in the Memorandum are compliant with the Human Rights Act 1998 and the Equality Act 2010.

4. Data protection and freedom of information

- 4.1 Both HIW and PSOW are subject to the Freedom of Information Act 2000 and Data Protection Act 1998. 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.
- 4.2 Where personal information is shared, this will be done in accordance with the requirements of the Data Protection Act 1998.

5. The relationship in practice

- 5.1 HIW and PSOW commit themselves to a principled way of working, as set out below:
- 5.2 The working relationship between HIW and PSOW will be characterised by regular, on-going contact and appropriate open exchange of information between them within the parameters of their respective legal frameworks.
- 5.3 Formal meetings will be held between the Chief Executive of HIW and the Ombudsman as required but no less frequently than every 12 months. The Chief Executive or the Ombudsman may delegate this task to their Deputy or Director of Investigations respectively.
- 5.4 Formal meetings to discuss matters of mutual interest will also be held between a nominated representative from each organisation on a six monthly basis. Other staff will also liaise on such matters as and when they arise.
- 5.5 PSOW will also nominate representatives to formally participate in any relevant information sharing exercises hosted by HIW.
- 5.6 In the spirit of co-operation HIW and PSOW agree to:
 - Share information about trends, data, policy and initiatives which relate to the shared aim of ensuring that service users are provided with high quality services;
 - Proactively share electronic copies of reports following reviews and inspections or investigations. Anonymity will be protected in line with organisational policies and procedures;
 - Consult in relation to guidance or reports produced by one co-signatory that refers to the responsibilities or functions of the other co-signatory;

- Co-operate in disseminating information about good practice where that good practice is relevant to the principal aims of the other co-signatory;
 - Ensure that enquirers and potential or actual complainants are given helpful and accurate information about the functions of the other co-signatory, where that information could be helpful to them.
 - Co-operate and share general information in relation to complaints and concerns in respect of healthcare provided or commissioned by the NHS or privately arranged palliative care services.
- 5.7 As required, both organisations will share details of their internal policies and procedures.
- 5.8 Each organisation will distribute to the other (under embargo) press releases in order to determine how any media interest relating to a matter of mutual concern might be handled.
- 5.9 Each organisation will share any media statement which refers to the other (under embargo) prior to publication to ensure that the statement is accurate.
- 5.10 Each organisation will ensure that members of staff are aware of the content of this Memorandum and the principles for joint working.
- 5.11 It will be the responsibility of the Chief Executive and the Ombudsman to ensure that each organisation understands the other's role and the statutory framework within which it is required to operate.

6. Referral in individual cases

HIW and PSOW will direct concerns or cases from one co-signatory to the other co-signatory where it is appropriate to do so. For example, PSOW may refer a matter to HIW where it receives information which suggests that there might be a threat to the health and safety of one or more persons and it is considered in the public interest to disclose this information. HIW may refer to PSOW where a complaint is raised in relation to a service provided by a body which falls within its jurisdiction and the requirements set out in the Public Service Ombudsman (Wales) Act 2005 are met.

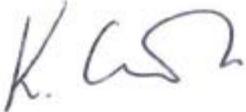
7. Reconciliation of disagreement

Both co-signatories will look to resolve any disagreements amicably at an operational level. If a disagreement cannot be resolved at that level, senior managers from both organisations will then jointly be responsible for ensuring a mutually satisfactory resolution.

8. Review

This Memorandum of Understanding will be reviewed and updated as required but no more than one year after being signed and every two years thereafter.

9. Signatures

<p>Dr Kate Chamberlain</p> <p>Chief Executive, Healthcare Inspectorate Wales</p>  <p>Signed:</p> <p>Date: April 2016</p>	<p>Nick Bennett</p> <p>Public Services Ombudsman for Wales</p>  <p>Signed:</p> <p>Date: April 2016</p>
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Appendix A

Roles and responsibilities

The role of HIW

A1. HIW is the independent inspectorate and regulator of health care in Wales. HIW exercises certain functions which include the ability to consider:

- the availability of, and access to, health care;
- the quality and effectiveness of health care;
- the financial or other management of health care and the economy and efficiency of its provision;
- the availability and quality of information provided to the public; and
- the need to safeguard and promote the rights and welfare of children.

A2. HIW's role is to review and inspect NHS and independent health care organisations in Wales to provide independent assurance for patients, the public, the Welsh Government and health care providers that services are safe and good quality. HIW also has specific responsibility to ensure that the interests of people whose rights are restricted under the Mental Health Act are properly protected. HIW also fulfils the role of the Local Supervising Authority for the statutory supervision of midwives in Wales. HIW carries out functions on behalf of the Welsh Ministers.

The role of the PSOW

PSOW has a statutory role to look into complaints about public services and independent health and social care providers in Wales. He also investigate complaints that members of local government bodies have broken their authority's code of conduct. He is independent of all government bodies. PSOW's role is to:

- To consider complaints about public bodies, including family Health Service providers and privately arranged or funded social or palliative care services.
- To consider complaints that members of local authorities have broken the code of conduct.
- To put things right and put people back in the position they would have been in if they had not suffered an injustice and work to secure the best possible outcome where injustice has occurred.
- To work with bodies so that lessons from investigations are learnt.
- To promote continued improvement in the standards of public services in Wales by helping bodies to get it right first time – to work to reduce complaints by helping service providers to improve their decision making.

Appendix B
Contact Details

1. Contact details

HIW	PSOW
Director of Inspection, Regulation & Investigation Healthcare Inspectorate Wales Rhydycar Business Park Merthyr Tydfil CF48 1UZ Telephone: 0300 062 8163 www.hiw.org.uk	Chief Operating Officer & Director of Investigations Public Services Ombudsman for Wales 1 Ffordd yr Hen Gae Pencoed Bridgend CF35 5LJ Telephone: 0300 790 0203 www.ombudsman-wales.org.uk

2. Named contacts between the **HIW** and **PSOW** are as follows:

HIW	PSOW
Dr Kate Chamberlain Chief Executive Email: kathryn.chamberlain@wales.gsi.gov.uk	Nick Bennett Public Services Ombudsman for Wales Email: nick.bennett@ombudsman-wales.org.uk
MoU Management	
Darren Hatton Corporate Intelligence Manager Email: darren.hatton@wales.gsi.gov.uk	Geraint Jones Assistant Investigation Manager Email: Geraint.Jones@Ombudsman-Wales.org.uk