Royal College of Surgeons
ADVANCING SURGICAL CARE

Health and Social Care (Quality and Engagement) (Wales) Bill

Consultation Response
The Royal College of Surgeons

The Royal College of Surgeons of England
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The Royal College of Surgeons (RCS) is a professional body that sets the highest standards for surgical practice and training in order to deliver safe and high quality patient care. We aim to work alongside Welsh Government, the Welsh NHS, and all political parties as a constructive partner to continue to drive up standards for patients.

We welcome the opportunity to respond to the Health, Social Care and Sport Committee's consultation into the general principles of the Health and Social Care (Quality and Engagement) (Wales) Bill. The RCS would be pleased to give oral evidence to the Committee to provide further information on the points raised in this submission.

Placing quality considerations at the heart of all the NHS in Wales

The RCS supports the provisions in part 2 of the Bill to place quality at the heart of the NHS in Wales, particularly as there has previously been a far greater focus on performance and finance. Reframing the current duty of quality will help NHS bodies and Welsh Ministers to monitor and improve the quality of healthcare. However we note the Bill states that the annual report on the steps the NHS has taken to comply with the duty of quality "must include an assessment of any improvement in outcomes achieved by virtue of those steps". In order to support this, the RCS believes the collection and publication of data needs to dramatically improve, to help the Welsh NHS make informed judgements about the quality of patient care.

Specifically, outcomes and recording activity has not been well resourced in the past. As a consequence there has not been any imperative for organisations to collect this data in the same way as there has been in England where 'Payment by Results' and tariffs require hospitals to record their activity in order to be paid. While this might not necessarily be the right approach in Wales, we would like to see greater focus on the collection and management of data. This would help to indicate which services and procedures would benefit from more focus on improving outcomes for patients.

The RCS strongly supported the Welsh Government's announcement in July 2013 that they would work to publish surgical outcomes data in Wales at a unit level, with consideration given to individual outcomes data at a later date. It is disappointing that more progress has not been made since this announcement. We urge the Committee to call for statutory reporting on unit outcomes data to help drive forward improvements in care and ultimately empower patients with robust information. We have already asked the Welsh Government to make this an urgent priority and expressed our willingness to work closely with them on this.

In Wales there is no routine publication of data on how many operations are cancelled and whether the cancellation is for a clinical or non-clinical reason. Having access to this data would help to clarify why operations are being cancelled and where there are pressures in the system which might be contributing to high waiting times for some types of surgery. We would like the Committee to recommend that data on cancelled operations, along with reasons for their cancellation, be published publicly in Wales on a monthly basis.

The RCS remains concerned by long waiting times in Wales. Timely access to healthcare is one of the biggest challenges facing surgical services and is an important aspect of quality in any health system. The longer a patient waits for treatment, the longer they are in pain and the worse their outcomes from surgery. The current Welsh Government target is for at least 95 per

cent of patients to have waited less than 26 weeks from referral to treatment, with 100 per cent treated within 36 weeks[1]. Although progress has been made in reducing waiting times for planned treatment, statistics show that the Welsh Government's 26 and 36 week planned surgery targets have consistently not been met since 2011[2]. In May 2019, there were 455,104 patients waiting to start treatment in Wales, with 12,398 waiting more than 36 weeks. We would like to see the Welsh NHS place much more priority on reducing waiting times. We urge the Committee to call for a specific strategy to improve planned and emergency surgery waiting time and access to services in Wales, along with an annual report on waiting times to help assess progress against targets. The RCS would be happy to contribute to this work.

More broadly, the RCS has been calling for the NHS in Wales to fund the expansion of the currently limited number of procedures for which national clinical audits exist. At present, they cover clinical outcomes for procedures such as joint replacement, vascular surgery, cataract surgery and emergency laparotomy. We welcome the agreement from the Deputy Chief Medical Officer in Wales with regards to joining the breast implant registry yet further procedures need to be covered. In addition, the RCS has recommended that all new surgical procedures and devices should be registered before they are routinely offered to patients. We are keen to be involved in the ongoing discussions to potentially develop this register by widening the Scan4Safety initiative.

Placing a duty of candour on NHS organisations

The RCS strongly supports the provision in part 3 of the Bill to place a statutory duty of candour on the NHS and regulated providers of independent health services in Wales, similar to that introduced in England in 2014. Candour and openness are a fundamental part of what it means to be a healthcare professional. To drive up standards of care, professionals and organisations need to be honest about their mistakes in order to quickly deal with errors and learn from them. Candour also allows the public to understand why decisions have been made, encouraging patients to be involved in their care. However it is important to recognise that legislation in itself is not enough – openness and transparency need to be led by the top of the organisation to engender real culture change and drive professionalism in the Welsh NHS. Raising concerns early, before they become a serious patient safety threat, combined with a strong relationship between clinicians and managers, is vital to patient safety.

In April 2015, the RCS published a best practice guide on how to implement the principles of duty of candour in everyday practice. In this we outlined steps that surgeons should take on an individual level, to ensure that the principles of the duty of candour are at the forefront of everyday work. Specifically, we outlined the following considerations for surgeons and their employers and would welcome the opportunity to shape the guidance supporting the duty of candour:

- How to nominate an individual to carry out the disclosure discussion

[1] NHS Wales Referral to Treatment Times: Quarter ending December 2016, Statistics for Wales, p.g1: http://gov.wales/docs/statistics/2017/170309-nhs-referral-treatment-times-quarter-ending-december-2016-en.pdf
[2] NHS Referral to Treatment Waiting Times, National Assembly for Wales research service paper, January 2016: http://www.assembly.wales/Research%20Documents/RN16-001%20-%20NHS%20Jan16/RN16-001.pdf

- The process for apologising and understanding liability
- Details on timing, location and persons to notify should an error occur
- How to ensure that the patient is well supported
- How to facilitate an open dialogue with patients
- What documentation is required
- What to do if the error occurred in a different organisation
- The support that should be available for surgeons and surgical teams who have been involved in harm
- How to report the incident and ensure lessons are learnt
- Ensuring that there is a culture of openness, focusing on patient safety

We note that the Regulatory Impact Assessment accompanying the Bill states that Healthcare Inspectorate Wales (HIW) will be the inspectorate responsible for assessing compliance of the duty of candour on behalf of the Welsh Ministers". However we remain of the view that there are significant shortcomings in HIW's approach and have supported moves to strengthen its regulatory remit and independence. We urge the Committee to recommend a much clearer system of inspection and external challenge in the health service in Wales. This should continue to include specialist clinical leads in inspection teams, and should incorporate third party intelligence and data. While HIW already carries out some proactive reviews, more regular reviews should occur. Consideration should also be given to appointing a Hospital's Inspectorate within HIW to support the wider work of HIW, as in England, to support the wider work of HIW. To provide public reassurance, we believe that there is merit in reviewing all hospitals in Wales through an enhanced inspection regime by HIW.

HIW's budget is significant lower than other inspection bodies in Wales at £3.9m in 2018-19[3]. For example, the education regulator, Estyn, received a total revenue of £11.3m in 2017-18[4] and Care and Social Services Inspectorate Wales will receive £13.9 in 2017-18[5]. These severe budgetary constraints result in serious shortcomings for HIW's manpower and resourcing and we believe is an area which should be given urgent consideration.

Strengthening the voice of citizens across health and social services

The RCS cautiously welcomes the provisions in part 4 of the Bill to establish the Citizen Voice Body for Health and Social Care to replace the current Community Health Councils (CHC) that solely cover health services. We believe that any reform of the CHC system must retain the public voice as part of the current process of reconfiguring health services in Wales. At present, when a CHC challenges a reconfiguration decision, the Health Minister can ask the Chief Medical Officer to convene a panel of experts to review the proposal and make recommendations to the Minister. We would like the Committee to suggest the Welsh Government adopts the model of the Independent Reconfiguration Panel in England to bring an additional level of independence and public confidence to any reconfiguration review.

[3] Health Inspectorate Wales Annual Report 2018-19, page 13: https://hiw.org.uk/annual-report-2018-2019
[4] https://www.estyn.gov.wales/faq
[5] Care and Social Services Inspectorate Wales, Chief Inspector's Annual Report 2017-18, page 11: https://careinspectorate.wales/annual-report-2017-2018

Strengthening the governance arrangements for NHS Trusts

The RCS strongly supports the provisions in part 5 of the Bill to strengthen the governance arrangements for NHS Trusts by introducing a formal Vice Chair role. Yet we believe these arrangements could be further strengthened by ensuring formal clinical and patient representation on all NHS Trust and Health Board boards. This would help to support greater collaboration between clinical and managerial leaders in the Welsh NHS. At present, with the exception of the Medical Director, there is no medical staff representation on Board or Executive roles in Health Boards in Wales. There is therefore a need to elevate the professional and clinical agenda within the decision making process in Health Boards.

We believe lay or patient representation should also be sought at all levels of the NHS, especially on NHS trust boards, specifically in developing standards. This would help the patient voice to be heard at the highest levels in the NHS, to ensure the focus of decision-makers is on improving patient care.