CYNGOR IECHYD CYMUNED
COMMUNITY HEALTH COUNCIL
BWRDD CYMRU | WALES BOARD

Citizen Voice Body – guidance on access, representations, and NHS service change

The Board of Community Health Councils in Wales (the CHC Board) welcomes the opportunity to respond to the Welsh Government's consultation on the following:

1. Draft Code of practice on access to premises
2. Statutory guidance on representations
3. Guidance for engagement and consultation on changes to health services

The CHC Board provides advice and support, sets standards, provides guidance and performance manages CHCs in Wales. CHCs are independent bodies that reflect the views and represent the interests of people living in Wales in their National Health Service (NHS). CHCs encourage and support people to have a voice in the design, planning and delivery of NHS services.

There are 7 CHCs in Wales. Each one is made up of local volunteer members who live in the communities they serve, supported by a small team of paid staff. Each CHC:

- Carries out regular visits to health services to hear from people using the service (and the people providing care) to influence the changes that can make a big difference

- Reaches out more widely to people within local communities to provide information, and to gather views and experiences of NHS services.

- CHCs use what they hear to check how services are performing overall and to make sure the NHS takes action to make things

better where this is needed

- Gets involved with health service managers when they are thinking about making changes to the way services are delivered so that people and communities have their say from the start

- Provides a complaints advocacy service that is free, independent and confidential to help people to raise their concerns about NHS care and treatment.

CHCs in Wales do not have a statutory role in reflecting the views and representing the interests of people who may or do need to access social care services in Wales.

On the 1 April 2023, the new Citizen Voice Body (CVB) will replace the CHC Board and each of the 7 CHCs in Wales. It will have a statutory role in reflecting the views and representing the interests of people in health and social care services.

The CHC Board welcomes the launch of the new Citizen Voice Body and supports the introduction of these 3 important Code and guidance documents, which will help create a clear framework and common understanding of each organisation's role, responsibilities, and duties.

Firstly, we think it is important that the connections between the documents are clearly recognised. The documents need to be considered together, and not in isolation.

It should be explicit and clearly emphasised for example that the Code of Practice on access to premises applies to all NHS healthcare and social care services provided for people living in Wales, including commissioned services and services accessed in England.

Health and social care bodies should be expected to use their commissioning frameworks to satisfy themselves that commissioned providers are meeting the expectations and relevant requirements set out in the code and guidance documents.

We set out below our suggestions to further strengthen each document in some key areas. We believe this will support our vision that the introduction of the Citizens Voice Body creates a stronger, independent voice for people in their health and social care services for everyone living in Wales.

1. Draft code of practice on access to premises and engagement with individuals

1.1 The CHC Board welcomes the production of this draft Code of practice and recognises its fundamental aim will be to support people who are accessing health and care services to have a strong voice in their health and social care services, at the point that they are receiving NHS or social care services.

1.2 We support the intent in this document to set clear guidance for the CVB and health and social care providers. The CHC Board offers the following suggestions, which we believe will strengthen the intention of the Code in protecting the voice and decisions of people who wish to engage with the new independent body.

1.3 We recommend the inclusion of a "summary of purpose", or similar extract, at the start of the document. This should make clear that the purpose of the Code is to support and protect the fundamental principle that people receiving services should be given every opportunity to share their views and experiences with the CVB.

1.4 They MUST be the most important decision makers when deciding whether or not to share their views and experiences – and not health and social care providers.

1.5 The code should set a clear expectation of openness and transparency amongst NHS and social care providers. We think the summary of purpose should refer to the "*presumption in favour of access*" (at the moment only referred to once in the

draft code at paragraph 19), and that this favour of access is cited more prominently throughout the document.

1.6 We think this would strengthen and further embed the ethos that decisions made about engagement are taken by people receiving services, and if the service users consent (as referred to in para.32), the CVB may proceed with the engagement.

1.7 We think that the Code of practice would benefit from some illustrative examples of how the period of notice for requests for entry from the CVB may differ (including providing for visits without prior notice) depending on the kind of setting and the focus of the engagement.

1.8 We note that the Code refers to "on-the-day visiting" once on page 5 para 21. We think this statement could be clearer for service providers' and service users' understanding that CVB requests to access premises could be made "on-the-day" and with limited or no prior notice.

1.9 We also think it would be helpful on page 6, para 23, bullet point 2 to state that the "*five working days for a residential setting*" is just a suggested example of a planned visit and that this example should not be seen as "the rule" for periods of notice.

1.10 We support the instruction on page 12 para 52., that <u>providers</u> who refuse the CVB's request to access premises, "*must explain the reason for the decision*" and that the body should "*respond promptly (and certainly before the proposed date of the visit, in the case of visits with notice)".*

1.10 We think the Code should clearly demonstrate the expectation that a refusal of entry would occur only rarely, and in exceptional circumstances.

1.11 This could be achieved by providing illustrative guidance on the kind of exceptional circumstance that could lead to a provider reasonably refusing access, e.g., an active infection control

issue, a recent or imminent passing of an individual, immediate risk to service user, staff or CVB representative safety.

1.12 Having looked at the Code of practice and the statutory guidance for making representations together, we recognise that these two documents are interlinked and should be explicitly referred to in each – so that it's easier for everyone to understand how things need to work together to encourage and ensure peoples' voices are heard and responded to.

1.13 For example, the CVB may publish a report making representations to health and social care bodies following a visit (or series of visits) to hear from people while receiving services.

1.14 The Code of practice therefore needs to refer providers to the statutory guidance on representations (section 29) so they are aware that their responses to CVB requests and reports may be published by the CVB.

1.15 We support the intent of paragraph 27 where it states that service providers should facilitate CVB approaches to engagement with people whose services are delivered in their own private residences.

1.16 This is important because the CVB would otherwise be unable to effectively target its activities to reach people who are receiving health and social care services in their own private homes.

1.17 We support the guidance for commissioned providers set out in paragraph 31 where it states; "NHS bodies and local authorities must have regard to this Code in responding to requests for access, and should provide through contractual arrangements that their commissioned bodies (each of which may be in receipt of requests to provide access to premises for the purpose of seeking the views of individuals in respect of health services or social services) do the same."

1.18 In practical terms, we are keen to understand what the

arrangements will be for reviewing existing contracts for commissioned services and providers, and will these reviews be completed in a timely way to support the operation of the CVB functions?

2 Statutory guidance on representations made by the Citizen Voice Body

The CHC Board supports the overall intention and scope of this draft statutory guidance document. Having carefully considered the contents, we believe this guidance supports and drives the impact of the CVB's function when it makes representations to health and social care services.

We think the following suggestions would strengthen this draft guidance even further:

2.1 As referred to earlier, we think each of the key documents being consulted on are linked to this statutory guidance. Each should reference the link, possibly at the beginning of the documents, for ease of understanding and application. For example, this guidance is particularly relevant to the NHS guidance on service change, and both should be applied together for service change matters.

2.2 We would welcome the inclusion of illustrative examples of the kinds of ways the CVB may make representations, and in turn the ways in which health and social care bodies may respond, e.g., an engagement report following a visit(s) to a setting or a service user survey, participation at a committee or meeting, telephone, emails, etc.

2.3 We fully support the expectations set out within paragraph 34, reflecting the duty on the CVB, NHS bodies and Local Authorities to work well together and in a culture of constructive cooperation, with the focus of improving services and outcomes

for people.

3 Guidance for engagement and consultation on changes to health services 2022

The CHC Board supports the need for refreshed guidance for NHS services when handling service change plans or proposals, whether this be for new or existing services.

We think this needs to be statutory guidance, and not simply 'best practice' guidance.

This is because people should be able to expect that wherever they live in Wales, NHS bodies making proposals to change the way their services are provided will go about it in a way that gives them the same, strong voice through the same clear and consistent framework. Anything else would essentially weaken the position.

We think the following suggestions would strengthen the draft guidance:

3.1 As referred to earlier, we recognise this document is linked to the Statutory guidance document. Again, this document should reference the link at the beginning, for ease of understanding and application.

3.2 We welcome the point made at paragraph 7, which refers to a few phrases used within the NHS to describe service changes. To support this statement, we think further service change descriptors could be included to support wider understanding of the different kinds of changes that fall within the scope of the guidance.

3.3 CHCs currently hear a number of common descriptors such as service variation, service improvement, service expansion. CHCs also sometimes identify changes in the way services are delivered resulting from revisions or amendments to a policy.

It's really important that NHS decision makers are aware of and understand the importance of identifying and understanding their responsibilities to work within the framework of this guidance in support of their duties as set out in section 183 of the NHS Wales Act 2006 whatever the circumstances driving such changes.

3.3 At paragraph 35, where the guidance makes specific reference to an NHS body's duties and responsibilities for equality and diversity and Welsh language impact, we think the guidance could also usefully refer to the socio-economic duty.

3.4 To support a consistent approach to service change handling within the NHS across Wales, so that people in all parts of Wales have a fair and equitable opportunity to have their say on proposals to change the way NHS services are provided, we think the guidance should include existing good practice principles.

3.5 This should cover things to help those developing change proposals to think about their approach to engagement and/or consultation, based upon whether the proposals could be considered minor, moderate or substantial service change proposals. For example:

- **Minor change proposals** - minor impact, not likely to be controversial locally, e.g., premises move within same community area, same level of service being delivered by different staff/in a different way (**4 weeks engagement**)

- **Moderate change proposals** - moderate impact to service users, or moderate number of people impacted, not likely to be highly controversial locally, e.g., change of service location, partial service withdrawal, closure of small facility with limited services (**6-8 weeks engagement with a potential need for up to 6 weeks formal consultation**)

- **Substantial change proposals** - high impact to service users, or high numbers of people impacted, likely to be potentially controversial locally, e.g., full site closure, complete service withdrawal, cross border issues – **(initial period of engagement with a potential for up to 12 weeks formal consultation)**.

3.6 Whilst we support the overall narrative of this draft guidance document, particularly the guidance set out from paragraph 40 onwards, we think the absence of this kind of framework leaves the handling of service change proposals open to significant variation of approach.

3.7 This means that for those who may be affected by proposed changes, their opportunity to get involved consistently and meaningfully could be affected by differences in the length and type of engagement and/or consultation undertaken across Wales. This in turn increases the risks of proposals being subject to challenge, including through judicial review.

3.8 At paragraph 39, the guidance states: "a formal consultation period of a minimum of 6 weeks should be sufficient in most cases if the issues have already been fully explored during the first stage but it will strongly depend upon all the circumstances of the particular matter." We think it is important that this section be clearly set in the context of a clear framework of minor, moderate or substantial change proposal circumstances.

3.8 Whilst we acknowledge that the guidance suggests NHS bodies seek their own legal advice about whether consultations have been lawful, adequate, and fair, the existing examples of good practice above are widely applied and accepted in the NHS currently.

3.9 Its inclusion here would give a greater level of confidence that service change proposals are handled consistently and proportionately across Wales. It would also provide the public with easily accessible information about what they might expect in relation to NHS service change matters.

3.10 We do not feel it would be reasonable for the public to make their own legal enquiries to establish whether consultations have been fairly handled, if this guidance could provide them with a reasonable illustration of what they can expect. It would also help the CVB offering consistent representations to the NHS and advice to the public in all areas of Wales.

Finally, we think it's important to point out that for service change proposals to be effective, meaningful and successful, NHS managers need to be able to access professional public engagement advice and support from staff (and others where needed). This is important in helping them to get things right first time.

We think this should be clearly recognised in the guidance to make sure sufficient capacity is provided to manage service change from inception, right through to implementation and evaluation.

Contact details

Board of Community Health Councils in Wales
33 / 35 Cathedral Road
Cardiff
CF11 9HB

02920 235 558

@waleschc.org.uk

www.communityhealthcouncils.org.uk

@CHC_Wales