Memorandum of Understanding (MoU) between Healthcare Inspectorate Wales (HIW) and the General Medical Council (GMC)

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Approval:

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Formally agreed by	HIW: Alun Jones GMC:
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1. Introduction

1.1 This is a Memorandum of Understanding (MoU) between Healthcare Inspectorate Wales (HIW) and the General Medical Council (GMC). The roles and responsibilities of each organisation are set out at Annex C.

1.2 The aim of the MoU is to support the working relationship between HIW and the GMC and to facilitate efficient, appropriate, and secure sharing of information and intelligence about the safety and quality of healthcare services in Wales.

1.3 The working relationship between HIW and the GMC is an arrangement whereby partners provide oversight and assurance for healthcare services in Wales.

1.4 The agreement is based on a mutual understanding that communicating effectively in a timely manner and sharing information can benefit people who are in receipt of healthcare services.

1.5 This MoU does not change or affect the existing duties of each organisation or any other policies or agreements they have. It does not transfer or share any legal responsibilities between the organisations unless allowed by law.

1.6 This MoU is not legally binding. However, HIW and the GMC agree to adhere to its principles, have proper regard for each other's activities and work together to support and promote improvement in healthcare services.

2. Joint priorities and areas of work

2.1 Where there is scope for joint and collaborative work, a lead organisation will be identified. Joint and collaborative working may include taking assurance from each other's actions.

3. Cross-referral of concerns

3.1 If HIW or the GMC identifies a concern that falls within the other's responsibility, they will promptly share the concern and relevant information with the appropriate person at the other organisation. In the interest of patient safety and justice, the referring organisation will not

wait until its own investigation has concluded before making the referral.

3.2 In particular, HIW will refer to the GMC:

- Any identified concerns and relevant information about a doctor, PA or AA which may call into question their fitness to practise.
- Any identified concerns and relevant information about a healthcare organisation or a part of that organisation which may call into question its suitability as a learning environment for medical students, doctors, physician associates (PAs), or anaesthesia associates (AAs) in training.
- Any identified concerns and relevant information about a healthcare organisation which may call into question the robustness of its system of appraisal and clinical governance.

3.3 In particular, the GMC will refer to HIW:

- Any concerns and relevant information about a healthcare organisation in which doctors, physician associates (PAs), or anaesthesia associates (AAs) practise or are trained which may call into question the quality of care and services it provides.
- The anonymised summary of the NTS results and a list of the sites for enhanced monitoring. Update on actions after joint enhanced monitoring visits.

4. Sharing of Information

4.1 The working relationship between HIW and the GMC will be characterised by regular contact, and appropriate open sharing of information within the parameters of their respective legal frameworks.

4.2 Information sharing and referrals can form part of established routes for information sharing including, but not limited to, discussions at bi-annual Healthcare Summits; of which HIW and GMC are participating organisations.

4.3 The GMC will provide HIW access to its data explorer dashboard, where it can access data on National Training Survey (NTS) results and other data tools.

4.4 As outlined in Annex A, the key contacts will be available to facilitate the sharing of intelligence and information when required.

4.5 All arrangements for collaboration and sharing of information set out in this MoU and any supplementary agreements will take account of and comply with the UK General Data Protection Regulation 2021, the Data Protection Act 2018, any other relevant enactments, the Common Law requirements for confidentiality, Part 1 Chapter 6 of the Health and Care Social Act 2008 and any HIW and GMC codes of practice, frameworks or other policies relating to confidential personal information.

4.6 HIW and the GMC 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 but the decision on disclosure is at the absolute discretion of the organisation who receives the request under the Freedom of Information Act 2000.

4.7 Annex B provides HIW guidance on the sharing of personal information and the legal basis for information sharing.

5. Revalidation for doctors, PAs and AAs

5.1 It's important that all doctors, physician associates (PAs) and anaesthesia associates (AAs) practising in the UK follow the professional standards set by the GMC, and that their knowledge and skills are up to date.

We expect all doctors, PAs and AAs working in the UK to collect feedback from their patients and details of any significant events they've been involved in. They are also expected to review information provided by their employer. This information is then discussed in regular appraisals, where doctors, PAs and AAs reflect on their practice, recognising their successes and identifying areas for development. This information helps us to decide whether a doctor, PA or AA continues to meet the standards we set over time. We call this process 'revalidation'.

Engaging in reflection and professional development through revalidation supports patient safety. It also helps identify improvements to patient care that can be put in place in the organisations where doctors, PAs and AAs work.

5.2 Where appropriate, HIW will work in collaboration with the GMC and others as required to provide assurance about these systems as part of its routine activities while avoiding unnecessary regulatory burdens for

healthcare organisations or individual doctors, PAs or AAs. HIW is a signatory of the GMC's Effective clinical governance to support revalidation, that outlines the core principles underpinning effective clinical governance and sets out the responsibilities in the aspects of:

- Leadership, delivery and quality of clinical governance
- Revalidation
- Identifying and responding to concerns about doctors, PAs and AAs

6. Media and Publications

6.1 HIW and the GMC will provide each other with adequate notification and sufficient information about any planned public announcements on shared issues, including draft proposals and publications.

6.2 HIW and the GMC will collaborate, where appropriate, to produce joint statements or communications highlighting shared activities. We will ensure these arrangements comply with the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

6.3 HIW and the GMC will keep any documents shared in advance of publication confidential and will ensure they are not made public ahead of the planned publication date.

7. Governance

7.1 The effectiveness of the working relationship between HIW and the GMC will be supported by regular contact, either formally or informally.

7.2 Any disagreement between HIW and the GMC will normally be resolved at working level. If this is not possible, it must be brought to the attention of the MoU managers identified at Annex A, who may then escalate it as appropriate within the two organisations to reach a mutually satisfactory resolution.

8. Duration and review of this MoU

8.1 Both organisations have identified a person responsible for the management of this MoU in Annex A. They will liaise as required to ensure this MoU is kept up to date, identify any emerging issues and resolve any questions that arise in the working relationship between the two organisations.

8.2 This MoU begins on 1 April and will be reviewed every three years by the MoU managers identified in Annex A. It may also be reviewed more frequently at any time should it need to be altered or cease to be relevant at the request of either organisation.

9. Annex A – Contact Details and Approval

This annex can be found in the original document.
Redacted version for publication.

10. Annex B – The General Data Protection Regulation and Information Sharing

All information shared between partners must be in accordance with the MoU and UK General Data Protection Regulations (UK GDPR) and Data Protection Act 2018 (DPA 2018).

If partners intend to share any personal information, it must comply with UK GDPR.

The Welsh Government Information Rights Department require HIW to complete a Data Protection Impact Screening Tool, prior to the sharing of any personal information.

The Welsh Government Information Rights Department will then advise HIW if an information sharing agreement is required. This will require HIW to complete and submit a Data Privacy Impact Assessment and draft an information sharing agreement to support the sharing of any personal information.

Legal Basis for sharing personal information between the GMC and HIW

Both HIW and the GMC are data controllers acting alone for the purposes of UK GDPR and where appropriate EU GDPR.

Where the GMC identifies that personal data, it holds ought to be shared with HIW in order to fulfil its obligations the GMC's legal basis for sharing data under the UK GDPR is:

- Legal obligation (Article 6(1)(c) of the UK GDPR (Paragraph 9 of Schedule 1 of the Medical Act 1983)
- Public task (Article 6(1)(e) of the UK GDPR in respect to its statutory functions under the Medical Act 1983 which relates to Fitness to Practise).

Where this includes special category data, the GMC's legal basis under Article 9 of the UKGDPR is Article 9(2)(g) of the UK GDPR – reasons of substantial public interest with a clear basis in law. The substantial public interest condition is condition 6: for statutory and government purposes under Schedule 1 of the DPA 2018.

Where HIW identifies personal data, it holds ought to be shared with GMC in order to fulfil its obligations, HIW's legal basis for sharing data is:

- Article 6(1)(c) of the UK GDPR: Permission to share information when it is necessary for compliance with a legal obligation
- Article 6(1)(e) of the UK GDPR: Permission to share information to undertake a task carried out in the public interest or in the exercise of official authority
- Schedule 8 DPA: Processing data is permitted for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties.

- Special Category data sharing:
  Article 9(2)(g) of the UK GDPR: Processing is necessary for reasons of substantial public interest; Schedule 1, Part 2 of the DPA Processing is permitted for the purposes of substantial public interest; Paragraph 6 when it is necessary to exercise a function conferred by an enactment of rule of law;
- Paragraph 10 when it is necessary for the purposes of discharging certain protective functions which are designed to protect members of the public from certain conduct which may not constitute an unlawful act, such as dishonesty, incompetence or mismanagement.

11. Annex C - Roles and responsibilities

Healthcare Inspectorate Wales

HIW is the independent inspectorate and regulator of healthcare in Wales. 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 inspects NHS services and regulates independent healthcare providers against a range of standards, policies, guidance and regulations to highlight areas requiring improvement.

Further details of what HIW does can be accessed at www.hiw.org.uk or here.

HIW's current strategy outlines it's aims and objectives and can be accessed at HIW strategy.

HIW's main functions and responsibilities are drawn from the following legislation:

- Health and Social Care (Community Health and Standards) Act 2003 (legislation.gov.uk)
- Care Standards Act 2000 (legislation.gov.uk)
- Mental Health Act 1983 (legislation.gov.uk)
- Mental Health (Wales) Measure 2010 (legislation.gov.uk)
- The Controlled Drugs (Supervision of Management and Use) (Wales) Regulations 2008 (legislation.gov.uk)

For NHS healthcare services the following must be considered:

- The Health and Care Quality Standards (2023).
- The NHS Duty of Candour (2023)[1].
- Quality Statements (where available).
- Where ionising radiation is used, the Ionising Radiation (Medical Exposure) Regulations 2017 (Legislation.gov.uk)[2].

For independent healthcare services the following must be considered:

- The National Minimum Standards for Independent Health Care Services in Wales (2011)[3].

[1] The Health and Care Quality Standards and the NHS Duty of Candour were introduced under the Health and Social Care (Quality and Engagement) (Wales) Act 2020 (Legislation.gov.uk).
[2] Amended by the Ionising Radiation (Medical Exposure (Amendment) Regulations 2018 (legislation.gov.uk) and the Ionising Radiation (Medical Exposure (Amendment) Regulations 2024 The Ionising Radiation (Medical Exposure) (Amendment) Regulations 2024 (legislation.gov.uk)
[3] the-national-minimum-standards-for-independent-health-care-services-in-wales-2011-no-16.pdf (gov.wales).

- Applicable regulations such as the Independent Health Care (Wales) Regulations 2011 (Legislation.gov.uk) and the Private Dentistry (Wales) Regulations 2017 (Legislation.gov.uk).
- Where ionising radiation is used, the Ionising Radiation (Medical Exposure) Regulations 2017[4] (Legislation.gov.uk).

For relevant services where applicable the following should be considered:

- Relevant guidance and standards produced by regulators of healthcare professionals, such as, the General Medical Council (GMC), General Dental Council (GDC), the Nursing and Midwifery Council (NMC) and other recognised

General Medical Council

The responsibilities and functions of the GMC are set out primarily in the Medical Act 1983 (the Medical Act) The Anaesthesia Associates and Physician Associates Order 2024 and 'the next GMC order'[5].

The GMC is the independent regulator of doctors, physician associates (PAs) and anaesthesia associates (AAs) in the UK.

We work with them and other stakeholders to:

- set the standards of patient care and professional behaviours doctors, PAs and AAs need to meet.
- make sure doctors, PAs and AAs get the education they need to deliver good, safe patient care.
- check who is eligible to work as a doctor, PA or AA in the UK and work with them and their employers to confirm they're keeping up to date and meeting the professional standards we set.
- give guidance and advice to help doctors, PAs and AAs understand what's expected of them.
- investigate where there are concerns that patient safety, or the public's confidence in doctors, PAs or AAs may be at risk, and take action if needed.

[4] As amended – see earlier footnote

[5] The name of the order which relates to the three professions (doctors, physician associates and anaesthesia associates) under GMC regulation has yet to be confirmed by DHSC. This will be updated as part of the next scheduled annual review of the agreement, if said order name is confirmed by that date.