

## **Minutes of the meeting**

**Held on Friday 4<sup>th</sup> October 2019**

**The Taf Room, NWIS Offices, Tŷ Glan-yr-Afon, 21 Cowbridge Road East,  
Cardiff, CF11 9AD**

<b>Members</b>		
<b>Title</b>	<b>Representative</b>	<b>Present</b>
Chair of the Wales Information Governance Board	Patrick Coyle	Yes
Chair of Local Health Board	Donna Mead – Chair of Velindre University NHS Trust	Yes
Information Commissioners Office	David Teague – Regional Manager (Wales), ICO	Apologies
Director of Social Services		
Primary Care Representative	Fraser Campbell - Assistant Medical Director, Primary Care (West), Betsi Cadwaladr University Health Board (BCUHB)	Yes
Pharmacy Representative	Jamie Hayes, Royal Pharmaceutical Society	Apologies
Director of Nursing	Carole Bell - Director of Nursing	Yes (VC)
Policy Lead for Digital Health & Care, Welsh Government	Fliss Bennee	Yes
Welsh Government Official responsible for standards and governance	Craig Stevens	Yes
Caldicott Guardian from the Independent Sector		
Patient / Public Representative	Trevor Davis - Lay member / Bevan Advocate / Patient	Yes
Association of Independent Healthcare Organisations		

Director, RCN Wales	Helen Whyley - Interim Director Royal College of Nursing (RCN) Wales	Apologies
Chair, BMA Council	Philip White - Member British Medical Association (BMA) Welsh Council	Yes
Senior specialist in medical law / Healthcare governance	Vivienne Harpwood - Specialist in Medical Law, Chair Powys Health Board	Yes
<b>Advisors</b>		
Member of the UK Council of Caldicott Guardians		
Medical Director, NWIS	Rhidian Hurle	Apologies
Head of Information Governance, NWIS	Darren Lloyd	Yes
Chair of the Information Governance Management Advisory Group (IGMAG)	Justine Parry - Assistant Director of Information Governance and Assurance, Betsi Cadwaladr University Health Board	Yes (VC)
<b>Secretariat</b>		
Lead for Supporting the Information Governance Assurance Framework, NWIS	Andrew Fletcher	Yes
Lead Information Governance Officer, NWIS	Marcus Sandberg	Yes

## 1. Welcome and Apologies

The Chair welcomed all attendees and noted apologies.

The Chair welcomed Professor Donna Mead to the Board as the representative of the Chairs of the Local Health Boards. Members were informed that Jamie Hayes had accepted the invitation to join the Board as the from the Royal Pharmaceutical Society member and would be in attendance from the next meeting.

The Board welcomed Welsh Government representatives in attendance. It was noted that owing to a change of roles within Welsh Government, no representative had been present in some time.

## 2. Declarations of Interest

There were no declarations of interest.

## 3. Minutes of the last meeting

The minutes were approved as a true and accurate record of the previous meeting.

## 4. Matters Arising

There were no matters arising that were not covered off elsewhere on the Agenda. An update of actions from the previous meeting is provided in Annex 1, an update on outstanding actions from previous meetings is provided in Annex 2.

## 5. WIGB Items of Business

### 5.1 Declaration of Interest forms – for approval

Members were presented with a copy of the draft Declaration of Interest form for approval. The forms were approved by members. It was agreed that the secretariat would circulate a copy of the finalised form to members for completion.

**Approved:** The Board approved the Declaration of Interest form

**Agreed:** Declaration of Interest forms to be completed by members on an annual basis.

**Action:** Secretariat to circulate Declaration of Interest forms to members, once membership confirmed, for signing and returning.

### 5.2 Email Use Policy – for approval

The All Wales Email Use policy was presented to members for approval. The revision was undertaken to update the policy in light of the implementation of Transport Layer Security (TLS) in NHS Wales and a number of public authorities. Members were informed that TLS was automatically engaged and provided secure transfer of information when sending emails between those authorities. Members noted that a list was available that all NHS Wales staff members could consult and that this was kept up to date.

A discussion took place around operational matters that may need to be considered, and queried whether provision should be made for such matters in the policy. It was explained that this was a national policy and therefore it provided for high level policy decisions. It was further explained that operational considerations, such as specialist software that was used for the transmission of particular emails should be considered as a procedure in each use case.

The Board approved the Email Use Policy.

The Chair thanked the IGMAG subgroup for their work on behalf of the Board. The Chair would write to the Chief Executives of each organisation for implementation as per the agreed process.

**Approved:** All Wales Email Policy approved by WIGB.

**Action:** Secretariat to send a letter from the Chair of WIGB to the Chief Executives of each Health Board and NHS Trust in Wales to inform them of the requirement to implement the All Wales Email Use Policy.

### 5.3 Membership

Members were reminded that an email was sent on the 22<sup>nd</sup> August 2019, asking members to confirm their continued capacity to attend the Board. It was noted that this exercise would assist in understanding the membership and to ensure that gaps in the membership were identified. It was clarified that as soon as membership was finalised, the Board would seek to elect a Vice Chairperson.

**Action:** Secretariat to send a reminder to members to confirm their capacity to continue to attend the Board.

## 6. WIGB Website Refresh

Members received a presentation of the refreshed WIGB website, which had been published - (<http://www.wigb.wales.nhs.uk>).

Members were pleased to learn that the refreshed website had been rationalised to provide more concise information to visitors of the site. It was noted that the Terms of Reference, membership lists, minutes, agendas for previous meetings and the Board contact details were all available via the website. A Welsh language version of the website is also available.

## 7. NHS Digital Welsh Resident Information Flow

Members were provided with a paper, which provided an update on the position.

Members were reminded that NHS Digital had stopped sending Secondary Use Service (SUS) data for Welsh patients being treated in England to NWIS citing concerns that they believed there was no legal basis to provide this data on existing arrangements. It was noted that NWIS was not a statutory body like NHS Digital in England and there was an absence of regulation enabling the sharing of data. Therefore, the means of enabling the use of the data NWIS holds was via approvals made under Section 251 of the NHS Act 2006 by the Secretary of State for Health in England, on the recommendation of the Confidentiality Advisory Group.

Members noted that the Head of Information Governance in NWIS had led discussions with NHS Digital in collaboration with the Directors in NWIS. It was noted that the flow of information had numerous purposes, including the provision of direct care. Members were assured that the data was now being supplied again, however this was conditional on a series of provisions, specified by NHS Digital, being satisfied.

Members were informed that there was an expectation that agreements between NWIS and all the Health Boards in Wales were in place. In addition, there was a requirement that all Health Boards make amendments to their privacy policies to reference the receipt of data relating to the care of patients domiciled in Wales that have been treated in England. Most of these actions were now complete. It was noted that this was intended as an interim solution whilst this is secured in the long term.

Members commented that the Common Law was clear that this information could be provided to Wales. It was noted however that NHS Digital did not agree with this statement.

Members commented that the Board had explained to Welsh Government representatives at WIGB that there was a need to issue regulations to provide a legislative footing for data sharing in Wales for

many years. It was further commented that the absence of a clear statutory footing for NWIS and the use of data in Wales meant that NHS Wales organisations were being challenged by their counterparts in England.

A discussion took place relating to the creation of NHS X in England. It was observed that NHS X was a collaborative between the Department of Health and Social Care, NHS England and NHS Improvement that aimed to connect practitioners and NHS bodies in the delivery of national system implementations.

It was noted that by not supplying the data, there was a risk of harm to the patient, particularly where information was used for direct care. It was commented that not supplying data for some secondary uses could also impact on patient care. An example provided was for the invoicing for services.

## 8. Information Commissioner's Office (ICO) Update

Representatives from the Information Commissioners Wales Office had sent their apologies. This item was deferred until the next meeting.

## 9. Information Governance Management Advisory Board (IGMAG) Update

The Chair of IGMAG provided updates from the previous meeting as per the paper provided. The following areas of IGMAG work were highlighted:

- **NHS Wales Information Governance Breach Reporting:** An IGMAG subgroup have developed guidance to establish a consistent process for identifying and reporting breaches of data protection legislation to the ICO. A draft of the guidance is scheduled to be considered at next WIGB for approval. Members were informed that IGMAG members were encouraged to share reports of any local breaches that may have occurred with members as a standard Agenda item.
- **National Policy Development:** Members were made aware that the IGMAG subgroup were continuing to review and develop national policies. It was noted that a new Information Governance Framework had been created and that the Information Governance Policy and Information Security Policy would be reviewed. The WIGB would be asked to approve these policies for implementation in the Health Boards and NHS Trusts in Wales in due course.
- **Education/Health – Data Sharing:** Members were informed that Welsh Government were looking to establish a database of those children not in a recognised education establishment. The Vice Chair of IGMAG was working alongside them to ensure a DPIA is completed and they rely on the correct legal basis. Further updates will be provided to IGMAG via the Vice Chair.
- **Data Protection:** Members were made aware that all Health Boards and Trusts had utilised the 12 steps set out by the ICO and embedded principles in their local IG processes. Members noted that there has been informal discussions held at IGMAG regarding the UK's departure from the EU. Members were informed that Welsh Government had issued a Welsh Health Circular relating to 'Brexit' and noted that all organisations should relay any concerns and any impact this has post EU exit to them.

## 10. Patient Knows Best

Members were provided some background documents, including a timeline of Patient Knows Best (PKB) interaction with WIGB/IGMAG. These documents provided members with a summary of the purpose and functions of PKB, which is supplied by a third party.

Representatives from PKB attended to provide a demonstration of the system and answer any IG concerns members had.

The following was discussed:

- It was noted the information the patient added would be able to be edited or deleted, however, any changes made by the GP will remain.
- It was questioned whether patients are fully aware of what they are signing up to when registering for PKB. PKB had developed a multi layered approach to informing the user including a privacy policy, user agreement and supporting video material. These have been developed in collaboration with lay communities. Members questioned whether these were understandable by a lay person, PKB noted they had been through readability assessments,
- It was asked who owns the data. PKB stated that the information is the property of the patient and retained for a minimum of 8 years beyond last log in for medical-legal audit.
- Patients (or professionals) can give access to their record to any other individual and this includes limiting levels of access ie sexual, mental health, social care which by default are not shared unless turned on.
- It was explained in England, a GP can access PKB via the GP system and there are information sharing agreements between the practices and PKB.
- Members were made aware that if a patient dies PKB are notified in the system. However, if a carer is in place, they do not automatically lose access to the deceased records. But this will depend on the local protocols in place. It was noted that on occasion, GPs may access deceased patient records but this access would need to be justified. PKB noted that they would be happy to implement any standard that is in place.
- Members questioned when PKB receive the data upon authority signing up. It was noted that all data is immediately added into PKB, which is only accessible by the organisations. The information arrives immediately encrypted. Members questioned if this was compliant with the Common Law as the patient is not informed that their data was being used for a different purpose than it was intended for.
- It was queried what access there would be at the end of the contract / termination. It was noted that the patient would still be able to log into their record and the record would be maintained for medico-legal purposes.
- Members asked how PKB feedback complaints received to authorities. PKB explained there is a formal complaint procedure in place and noted the importance to feed these back to the authority.
- PKB mentioned that there is no system for keeping a Power of Attorney.
- PKB stated they are a processor for the information.



**Action:** Secretariat to send PKB questions agreed by members.

**Action:** Secretariat to circulate answered questions response received by PKB.

## **11. Data Protection Officer Function for General Medical Practitioners (GMPs) - Update**

Members were provided with a highlight report outlining the developments of the NWIS Data Protection Officer function for GMPs. The report highlighted the achievements of the service to date, outlining the ongoing tasks that were being undertaken and the future opportunities for developing the service.

## **12. National Intelligent Integrated Auditing Solution (NIAS) Update**

The Board were provided with an update as to developments of NIIAS in the form of a paper.

A further verbal update was to be scheduled for the next meeting.

## **13. National Electronic Data Retention Update**

The item deferred until next meeting.

## **14. Database of Dataflows between Health Boards / Trusts / NWIS**

Members were reminded that work had been underway to map the dataflows between the Health Boards NHS Trusts and NWIS. Members were informed that the dataflows that had been recorded would be detailed in a database. The database would take the same format as the Service Catalogue and would link to this and the Data Dictionary to ensure the detail was kept up to date, Members were made aware that they would be provided with a demonstration of the database at the next meeting.

## **15. Any other Business**

### **15.1 NWIS Change of Organisational Status**

Members were informed that NWIS was to be reconstituted as a Special Health Authority.

It was noted the NWIS Director had decided to leave the organisation and that a temporary Director had taken over to manage the organisation during the transitional period.

Members commented that it was hoped that Welsh Government would use the opportunity to create regulation to enable the new organisation to carry out its functions without the need to apply for Section 251 support.

### **15.2 Email mailboxes on change of organisation**

A discussion took place regarding how email addresses and mailboxes were managed when an individual member of staff moves from one NHS Wales organisation to another. Members were informed that the process was currently managed locally and that no IG concerns had been raised to date.



## Annex 1 – Actions from this meeting

*[A summary of the Actions from the present meeting is included below]*

Action Ref	Description	Action	By
5.1-10/19	<b>Declaration of Interest forms</b>	Secretariat to circulate Declaration of Interest forms to members, once membership confirmed, for signing and returning.	Secretariat
5.2-10/19	<b>Email Use Policy</b>	Secretariat to send a letter from the Chair of WIGB to the Chief Executives of each Health Board and NHS Trust in Wales to inform them of the requirement to implement the All Wales Email Use Policy.	Secretariat
5.3-10/19	<b>Membership</b>	Secretariat to send a reminder to members to confirm their capacity to continue to attend the Board.	Secretariat
10.1-10/19	<b>Patient Knows Best</b>	Secretariat to send PKB questions agreed by members.	Secretariat
10.2-10/19	<b>Patient Knows Best</b>	Secretariat to circulate answered questions response received by PKB.	Secretariat

## Annex 2 – Actions from previous meetings

*[Actions from previous meetings which haven't been closed, remain in Annex 2 with a brief description of any progress made. Upon closure, they are copied into Annex 3 as a closed action]*

Action Ref	Description	Action	By	Progress
11-12/18	<b>Our Data Driven Future in Healthcare</b>	Invite authors of report to future WIGB meeting	Secretariat	Authors to be invited at a suitable time
14-12/18	<b>Any Other Business</b>	Social Services Representative is needed on the Board– Speak to Welsh Government	Darren Lloyd	To be considered as part of membership review
5.1.2-10/18	<b>Updated WIGB Terms of Reference for approval</b>	Chris Newbrook to clarify the requirements relating to the terms of office for WIGB members	Chris Newbrook	Deferred until Welsh Government representative present
6.1-10/18	<b>Data Protection Officer (DPO) Function for</b>	Welsh Government to raise internally the concerns of the Board in relation to the lack of	Chris Newbrook	Deferred until Welsh Government representative present

Action Ref	Description	Action	By	Progress
	<b>General Medical Practices (GMPs)</b>	DPO support for primary care providers who were not within the scope of the service.		
<b>13.1-10/18</b>	<b>IGMAG Update – Risk Register</b>	Chris Newbrook to discuss the ownership of national IG risks with the Chair of IGMAG outside of meeting	Chris Newbrook	Deferred until Welsh Government representative present

## Annex 3 – Closed Actions

*[These actions are retained on the minutes ‘for information’ for one meeting following closure]*

Action Ref	Description	Action	By	Progress
<b>5.1.1-07/19</b>	<b>WIGB Terms of Reference</b>	Secretariat to clarify whether members who hadn't attended for some time were still able to be active on the Board and to relay to the Chair	Secretariat	Closed
<b>5.1.2-07/19</b>	<b>WIGB Terms of Reference</b>	Vivienne Harwood to invite Chair of a Local Health Board to sit on the Board	Vivienne Harwood	Closed
<b>5.1.3-07/19</b>	<b>WIGB Terms of Reference</b>	Terms of Reference to be amended in line with comments made by members.	Secretariat	Closed
<b>5.2.1-07/19</b>	<b>Declaration of Interest form</b>	Declaration of Interest form to be amended.	Secretariat	Closed
<b>10-07/19</b>	<b>Information Governance Management Advisory Group</b>	PKB to be invited to the next meeting	Secretariat	Closed
<b>5.1.3-10/18</b>	<b>Updated WIGB Terms of Reference for approval</b>	Secretariat to create a draft Declaration of Interest form to for approval at the next meeting	Secretariat	Closed