



AGENDA ITEM

5.5

CTM BOARD

COVID 19 PUBLIC INQUIRY PREPAREDNESS

Date of meeting	31.03.2022
FOI Status	Open/Public
If closed please indicate reason	Not Applicable - Public Report
Prepared by	Cally Hamblyn, Assistant Director of Governance & Risk
Presented by	Georgina Galletly, Director of Corporate Governance
Approving Executive Sponsor	Director of Corporate Governance / Board Secretary
Report purpose	FOR APPROVAL

Engagement (internal/external) undertaken to date (including receipt/consideration at Committee/group)

Committee/Group/Individuals	Date	Outcome
Strategic Leadership Group	16.03.2022	SUPPORTED
Quality & Safety Committee	22.03.2022	ENDORSED FOR BOARD APPROVAL

ACRONYMS

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1. SITUATION/BACKGROUND

- 1.1 The purpose of this paper is to provide the Board with a position statement in respect of the Health Board's preparedness for the forthcoming Covid-19 public inquiry.
- 1.2 The Covid-19 pandemic, which took hold in March 2020, has been one of the greatest challenges faced by the country and in the history of the NHS; challenges which have been predicated on unprecedented levels of demand

across the whole system that have called for an equally unparalleled response.

- 1.3 In 2021, the Prime Minister announced his intention to commission an independent public inquiry into the Covid-19 pandemic enabling the UK government to discharge its obligations and examine the actions it took to respond to the pandemic and to learn every possible lesson for the future.
- 1.4 On the 15th December 2021, the Rt Hon Baroness Heather Hallett DBE was appointed as Chair of the forthcoming public inquiry into the Covid-19 pandemic. The Inquiry, set to begin its work in spring 2022, will be established under the Inquiries Act 2005, with full powers, including the power to compel the production of documents and to summon witnesses to give evidence on oath.
- 1.5 The First Minister for Wales has continued to support a UK wide approach to an inquiry that includes Welsh chapters; however, opposition Parties, bereaved families and campaign groups are calling for a Wales specific inquiry given that the NHS is devolved in Wales.
- 1.6 The Terms of Reference, which will explain the scope and purpose of the inquiry, are still to be announced; however, the intention of such an inquiry is likely to establish the facts of what happened, the reason why they happened and who might be accountable. This is in addition to learning vital lessons for the future to ensure that all are better prepared for any future pandemics.
- 1.7 Additionally, the Terms of Reference will be designed to provide a framework that describes the types of documents and evidence that will be required for inspection, examination, and testing and how this should be provided.

2. SPECIFIC MATTERS FOR CONSIDERATION BY THIS MEETING (ASSESSMENT)

- 2.1 The Health Board Members are collectively and statutorily accountable for the safe and effective provision of health services to the population of Wales both in peace time and during a crisis with the responsibilities of the organisation set out in legislation.
- 2.2 Regulatory and inspectorate bodies such as Audit Wales and Internal Audit have already concluded, during separate reviews, that the Health Board largely maintained good governance throughout the pandemic to ensure the right decisions were made in the right way and at the right time. However, many decisions were made tactically, pragmatically and delivered at speed within newly formed operational strategies during this time and it is vital, therefore, that the Health Board takes steps now to ensure that the wealth of evidence has been collated in full and reviewed to ensure that it has all been catalogued and securely stored.

Inquiry Preparedness - Preparations to Date:

2.3 *Legal Guidance and Support*

- The Health Board has appointed Legal & Risk Services to act on its behalf as legal advisors.
- Queens Counsel has been instructed given the significant impact on the Health Boards population and high nosocomial rates.

2.4 *Programme Management Approach*

- A Covid-19 Pandemic Inquiry Working Group has been established with its inaugural meeting in January 2022, chaired by the Director of Corporate Governance. The Working Group has two clear functions, this is to:
 - **Prepare:** the CTMUHB for the COVID-19 Public Inquiry
 - **Respond:** Provide the UK government, when requested, with accurate and complete information pertaining to the COVID-19 public inquiry
- A preparedness plan has been drafted and will be received at the Working Group in March 2022 for formal agreement of content and timeframes.
- The Health Board is represented on the Group: 'All Wales Covid-19 Public Inquiry Channel', established by Legal & Risk Services, the purpose of this channel is twofold. Firstly, to provide a place for members to communicate with each other and share useful information and, secondly, to allow Legal & Risk Services to communicate updates quickly to organisations.

2.5 *Information Management*

- The Health Board appointed a Covid-19 Pandemic Inquiry Information Manager who commenced with the Health Board in December 2021. The main purpose of the role is to undertake robust, comprehensive, efficient, organised and confidential record and information management practices in relation to CTMUHBs pandemic response.
- Since commencement, the Covid-19 Information Manager has met and continues to meet current and past employees who were key to the timeline of events in the pandemic to gather intelligence including contextual information which is vital to support the documentation.
- The Covid-19 Information Manager is part of an All Wales Network of Information Managers/Archivists for the Inquiry to share learning and best practice.
- Key decision logs have been kept and maintained for the duration of the pandemic to date along with a list of key decision makers.

2.6 *Wellbeing Support*

- Dedicated resources to support staff have already been considered and plans underway to ensure any staff called to give evidence or impacted by the inquiry (past or present) are supported by the Health Board.

2.7 *Nosocomial Investigations*

- The Working Group does have a lead representative from the Nosocomial Work Programme to ensure activity is aligned. As the CTM

Quality & Safety In Committee has previously received updates on this area, it has not been captured in this report.

- 2.8 *Communication and Engagement Plan* – dedicated link within the Communication and Engagement Team has been identified and a Communication Plan is being formalised which will include a dedicated Staff Teams Live Event to raise awareness. This event will be led by a Legal & Risk Services Representative in conjunction with the relevant leads from the Health Boards Covid-19 Inquiry Working Group.
- 2.9 *Charter for Families Bereaved through Public Tragedy* – The Board is asked to adopt the Charter for Families Bereaved through Public Tragedy. Once adopted this will be declared publically on the Health Board’s website. Please see Appendix 1.

Future Preparation Activities

- 2.10 A substantial timeline of the pandemic describing the powers that the Executive Team and Tactical Commanders were using at the time crucial decisions were being made is a key piece of work is necessary to track and order the Health Board’s evidence against these timelines. This is a substantial piece of work and will take time and resources; however, it will clearly and easily demonstrate the steps that were taken and the decisions that were made as the pandemic guidance evolved.
- 2.11 Develop a full catalogue/repository of decisions, policies, procedures, communications, legislation and guidance that are linked to the Health Board’s Covid-19 preparations and ongoing response (all relevant electronic and hard copy information).
- 2.12 Identify a secure, searchable electronic storage tool identified and being developed.
- 2.13 Utilisation of the All Wales Reflections Tool for those Staff leaving the Health Board (Exit Interviews) and also to support the information gathering intelligence.

3. KEY RISKS/MATTERS FOR ESCALATION TO BOARD/COMMITTEE

- 3.1 Legal Advisors have suggested that a type of reflection document for key decision makers is created to capture experiences and record a recollection of key events both from those currently employed and those that may leave or have already left the organisation. The intention is to ask key individuals to provide clarity and perspective on the issues that have been faced to maintain and preserve the organisational memory and audit trails particularly as the inquiry could take some years to conclude. The impact of this on staff is significant so wellbeing support will be provided to those preparing reflection documents as they may be reliving trauma at different levels.

- 3.2 Organisational memory risk - consideration should be given to the records when staff move roles across NHS Wales as the current procedure is to transfer the whole of their O365 account including emails and one drives.
- 3.3 Additionally, consideration should also be given to the retention and storage of emails outside of the seven year automatic retention period and whether emails of key decision makers are retained and backed up separately. The issue presented is that pandemic related emails cannot be extracted from the day to day business and so every email will need to be retained and could create a challenge in relation to the Data Protection Act 2018. Under the current arrangements there is capability to recover emails and one drive documents even after deletion; however, this is only for a period of 7 years which may not cover the period of an inquiry.
- 3.4 Research and decisions are needed to consider how telephone calls, voice mail, text messages, WhatsApp messages and social media may feature as part of the inquiry and the Health Board's evidence portfolio given the complexities of including these in the record given their very nature. This extends to the collation of Teams 'chats'.

The above areas of risk and consideration will form part of the activity managed and co-ordinated through the Working Group.

4. IMPACT ASSESSMENT

Quality/Safety/Patient Experience implications	Yes (Please see detail below)
Related Health and Care standard(s)	Governance, Leadership and Accountability If more than one Healthcare Standard applies please list below:
Equality Impact Assessment (EIA) completed - Please note EIAs are required for <u>all</u> new, changed or withdrawn policies and services.	If no, please provide reasons why an EIA was not considered to be required in the box below. Not required.
Legal implications / impact	Yes – and Legal Representatives have been instructed.
Resource (Capital/Revenue £/Workforce) implications / Impact	Yes (Include further detail below) Staff time and resource.
Link to Strategic Goals	Improving Care



5. RECOMMENDATION

5.1 The Board is asked to:

- **APPROVE** the adoption of the Charter for Families Bereaved through Public Tragedy for onward Board approval. Included at Appendix 1.
- **NOTE** the contents of the report and receive assurances on the preparations for the inquiry to date.
- **NOTE** the next steps the Covid-19 Pandemic Inquiry Working Group will take to consider the full programme of work identified in this report and outline how this could be managed.