



Department
of Health

National Oversight Group

Annual Report for 2011-12 and 2012-13

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National Oversight Group

Annual Report for 2011-12 and 2012-13

Prepared by Andrew Herd and Douglas Hamilton

National Oversight Group Annual Report 2011-13

Chair's Preface

1. I am pleased to present this fourth report of the National Oversight Group for High Secure Services. The report covers the whole of the transition period to new NHS systems from 2011-12 to 2012-13.
2. The past two years have been a period of significant change in the NHS and criminal justice systems. From April 2013, NHS England took responsibility for directly commissioning high secure services as specialised mental health services. The National Oversight Group has played a critical role in providing stability and continuity through this period of change by maintaining oversight of the high secure services and providing advice and assurance to Ministers, through the Department of Health and Welsh Government officials, on how the high secure system should adapt and respond within this context to enable a smooth transition. The Group has also provided strategic and operational advice on the Department's High Secure Business Continuity and Transition Plan, to facilitate this process, and oversaw the migration to new systems and organisations. I am pleased that NHS England considers that there continues to be a need for the National Oversight Group to bring together key partners in the high secure system. I believe that close working between interested parties will be critical to ensuring that the changes are embedded and the high secure system continues to operate well for the benefit of patients and the public under these new arrangements.

Annual Report to Ministers

3. Until 31 March 2013, the National Oversight Group provided oversight of the high secure services on behalf of the Secretary of State for Health. The Group meets quarterly and brings together key partners and experts to ensure that appropriate processes are in place and work effectively for policy development, commissioning and performance management to deliver an equitable and consistent national high secure system.
4. The National Oversight Group's terms of reference require it to provide a report of its activities to the Secretary of State on an annual basis. As the activities of the Group during 2011-12 and 2012-13 focussed on transitional arrangements, this report outlines the work of the Group over this period as a whole. The report sets out how the Group has exercised its functions by taking available information, assessing and forming a view of that information, and providing assurance to the Secretary of State and his Ministers on the effective operation of the high secure system and advising policy officials, commissioners and others. The report also demonstrates that the Group has taken a longer-term strategic view of the high secure system, and considered that alongside the broader NHS and criminal justice agendas, learning from international practice as appropriate, in order to inform system development and management. The Group also comments on the completion of required Equality Impact Assessments, and the appropriateness of responses to them.

5. This report summarises the key discussions of the Group in the following sections:
 - (a) Terms of reference, membership and sub-group structure;
 - (b) Whole system management;
 - (c) Performance management;
 - (d) Commissioning/Capacity;
 - (e) Policy development;
 - (f) Equality Impact Assessments; and
 - (g) Working relationships.

Terms of reference, membership and sub-group structure

Terms of reference

6. Ministers agreed that the National Oversight Group should continue during the transition period to ensure oversight but that its role should be re-considered in the context of the new health systems set out in the Health and Social Care Act 2012. The Group reviewed its terms of reference accordingly. The terms of reference were updated to include the role of providing assurance on delivering the High Secure Business Continuity and Transition Plan, and to reflect the need to keep roles and membership under review during the time of transition. The terms of reference for the transition period are available at Annex A. The terms of reference have again been reviewed in 2013 in light of the Group now advising NHS England. The revised version is attached as Annex B.

Membership

7. The National Oversight Group includes representation from the Department of Health, Welsh Government, Ministry of Justice, National Offenders Management Service, NHS England, NHS commissioners, high secure services providers and other experts. The most recent membership is listed in its terms of reference at Annex B.
8. The National Oversight Group is independently chaired by Thelma Holland. She was re-appointed as independent chair in January 2012 for the period to March 2013. The Chair of the Group may communicate concerns about any part of the high secure system directly to Ministers, where she considers this appropriate.

Sub-groups of the National Oversight Group

9. The Clinical Secure Practice Forum is a formal sub-group of the National Oversight Group and provides quarterly reports to the Group. The role of the Forum was considered by the Group who decided it was important that the Forum continued to meet during the transition period. The membership of the Forum includes representatives from the three high secure providers, Department of Health, NHS England, NHS commissioners, Her Majesty's Prison Service and an independent security advisor. Colleagues from The State Hospital in Scotland are also invited to attend.
10. The Forum continues to be highly valued by members as a means of working together to learn from experiences, develop ideas and guide policy development on a range of clinical security issues. It conducts the annual review of the Clinical Security Framework and Technical Design Guide and latterly, embarked on the development of a Clinical Framework to ensure equity and consistency of policies and procedures that impact on high secure patients.

Whole system management

11. The National Oversight Group plays an important role in bringing significant partners in the high secure system together to provide oversight and assurance. The Group also fosters collaboration and communication. The primary focus during this reporting period has been on understanding the implications of the health system reforms for the high secure system, advising on how to maintain continuity, planning for transition, and providing assurance that the necessary arrangements have been put in place.
12. During 2011-13, the Group has provided oversight and advice on continuity and assurance of the safe operation of the high secure mental health service throughout the reform of the health system. The Health and Social Care Act received Royal Assent in March 2012 and the Group held extensive discussions on the implications of these reforms for high secure services. This informed the new governance arrangements for high secure services. These new arrangements enable continuing and robust Ministerial oversight of the high secure system for England and Wales (through authorisation of high secure services by the Secretary of State for Health, and direction-making powers over high secure providers and NHS England in relation to high secure services) as set out in Section 16 of the Health and Social Care Act 2012.

High Secure Business Continuity and Transition Plan

13. To ensure that the high secure system remained effective and robust during the NHS reforms, the Department of Health led on the production of a High Secure Business Continuity and Transition Plan to identify the actions required by key stakeholders to ensure continuity and successful transition.
14. The National Oversight Group advised on the development of and monitored the implementation of the plan and managed key risks to maintain consistency as responsibilities were handed over to new organisations. This included advising on commissioning, capacity planning arrangements and operational processes. The Group ensured that appropriate mitigating action was taken where risks were identified.
15. The Group has regarded its oversight of the delivery of this plan as one of its key functions during the transition period. It reviewed the plan and all the actions contained within it at each meeting, requesting changes and additional action as appropriate.

Performance management

16. The National Oversight Group received assurance about the operation of the high secure performance management framework from the former Strategic Health Authorities. The Group advised on the transition to new performance management arrangements, which became the responsibility of NHS England from April 2013. At each meeting the Group received reports from the three regions responsible for performance management and commissioning on issues specific to each high secure hospital. It discussed and challenged performance management issues to learn from issues that have arisen and to ensure consistency of practices and policies across the high secure system.

Commissioning/Capacity

17. The National Oversight Group received regular updates from West London Mental Health NHS Trust and commissioners on progress with the outline business case for redevelopment at Broadmoor Hospital. The Full Business Case has been approved by the Department of Health and approval from HM Treasury is imminent.
18. Commissioners have worked together with the high secure providers to develop a 10-year financial plan that takes account of agreed developments and continuing Cost Improvement Plans. To date, providers have consistently managed to achieve 0.5 per cent savings over and above those identified in the National Planning Framework. Providers have worked with commissioners to share ideas and implement Quality, Innovation, Prevention and Productivity schemes.
19. Through Commissioning for Quality and Innovation targets, jointly developed by commissioners and providers, improvements have been made in physical healthcare with targeted interventions and screening. The 'Recovery' approach has also been well embedded into services.

Policy development

Criminal justice system

20. The National Oversight Group received regular updates on relevant developments in the criminal justice system. It contributed to the development of the offender personality disorder pathway which is now being implemented by the National Offender Management Service and NHS England.

Foundation Trust standard

21. The Trusts which provide high secure services are eligible to apply for Foundation Trust status from April 2013. The National Oversight Group provided oversight of the legislative changes required and officers from the Department of Health and NHS England supported Monitor, as the sector regulator, to understand the specific nature of high secure services, so that high secure governance arrangements are taken into account in the assessment and compliance processes.
22. Trusts responsible for high secure services need to be authorised by the Secretary of State for Health to provide these services. Work has been undertaken to align the authorisation process to be a high secure provider so that NHS England and other relevant stakeholders provide recommendations to the Secretary of State prior to Monitor's decision to award a provider Foundation Trust status.

Prisons Transfer Guidance

23. The National Oversight Group continues to provide advice on the guidance for the transfer of prisoners back to prison from hospital. The Group has ensured the experiences of the high secure providers and commissioners informed the guidance by identifying the barriers to ensuring prisoners are transferred back to an appropriate prison from the high secure hospitals.

Women's services

24. The Women's Enhanced Medium Secure Services programme transferred to NHS commissioners from the Department of Health in 2010 and the evaluation of the programme continued during 2010-11. The results of the evaluation were considered by the Group during 2011-12 and led to the development of a new Women's Strategy. This Strategy has been developed with the involvement of commissioners, providers (including clinicians), criminal justice, service users and offender health.

Consistency across high secure services

25. The Group monitored the application of Leave of Absence policies across the three high secure hospitals, through the Clinical Secure Practice Forum, and highlighted areas for further improvement in consistency of application. More recently the Forum reviewed the categorisation of serious incidents and recommended greater consistency of classification and response.

National Evacuation Plan

26. The Group oversaw, through the Forum, the agreement of the final version of a National Evacuation Plan with the Prison Service and the Ministry of Justice, which covers the options for mitigation should any part of the High Secure estate become compromised.

Security

27. The Forum monitored progress, and reported to the Group, on progress towards compliance with the Safety and Security Directions, particularly in terms of the challenges posed by technological innovation. The three high secure hospitals undertook an annual security audit in both the reporting years and maintained a continuing improvement, comparing well with the high secure prisons. The Forum oversees the annual assurance process carried out by the Ministry of Justice audit team which ensures compliance with the implementation of the Safety and Security Directions.

28. The Forum assured the Group that it had conducted the annual review of the High Secure Technical Design Guide. This process is led and informed by provider experience.

Night-time Confinement

29. The Group has continued to monitor the extension of pilots of night-time confinement for some patients, subject to safeguards and review of patient experience.

Equality Impact Assessments

30. The National Oversight Group has commented on issues of equality in its discussions. The Women's Strategy in particular was developed in order to address the specific needs of women following the evaluation of Women's Enhanced Medium Secure Services. More generally, the aim of the work carried out by the Clinical Secure Practice Forum to harmonise policies across the high secure hospitals is to ensure equity.

Working relationships

National High Secure Commissioning Group

31. The National High Secure Commissioning Team was disbanded in March 2011. During 2011-13, the three regions responsible for commissioning high secure services continued to work together and were held to account by the National High Secure Commissioning Group, made up of members from every region. The Chair from this Group reported to the National Oversight Group to ensure that it was informed about and involved in discussions about commissioning and capacity in relation to high secure services.

Department of Health

32. The Secretary of State for Health's responsibilities under the NHS Act 2006 in respect of high secure services are delivered on a day-to-day basis by Department of Health and Welsh Government officials. The National Oversight Group has during this reporting period provided informed, considered and constructive advice to support policy decision-making, in particular giving assurance on the Business Continuity and Transition Plan. In April 2011, as part of the transition to the new health system, a Head of Specialised Mental Health Transition and Secure Services Policy was appointed in the Department and remained in post throughout the transition period. She ensured the Business Continuity and Transition Plan remained dynamic and an up to date plan was handed over to NHS England.

33. The Secretary of State remains responsible for high secure services, provided on behalf of England and Wales and has instructed NHS England on commissioning these services through the issuing of Directions. NHS England has a designated Executive Director responsible for high secure services. In recognition of its experience of taking an independent, strategic view of the service, the National Oversight Group has transferred to NHS England to advise that Director and the NHS England Board on high secure issues.

Chair's recommendation

34. The NHS reforms and changes in the criminal justice system represent both challenges and opportunities for the high secure system. The National Oversight Group considers that the high secure system is working well and that robust transition plans have been invaluable in ensuring that the services remained safe and secure and delivered effective and high quality care in a way which represents value for money. The Group believes that it has played an important role in assuring that transition plans are in place and delivered – particularly through its oversight of the High Secure Business Continuity and Transition Plan.

35. The Group has played a valuable role in providing independent advice to Ministers on how high secure services might function in the new health systems and will continue to provide that oversight as the changes embed. The role of the Group and its membership should be reviewed annually in the future to ensure that it reflects changes in the NHS and criminal justice system.

Annex A

National Oversight Group Terms of Reference up to 2013

Purpose

The legislative arrangements for high secure services, which confer on the Secretary of State for Health specific statutory duties relating to 'line of sight' arrangements, make high secure services unique and distinct. The current situation is that on a day-to-day basis these responsibilities are managed by officials in the Department of Health whose view is that this responsibility is best exercised on a system-wide basis by a National Oversight Group that brings together senior members of significant statutory stakeholder organisations. Similar obligations and arrangements exist in Wales. (These legislative arrangements will change in April 2013.)

Introduction

The National Oversight Group will focus on interpreting policy and context across England and Wales as they apply to high secure services on a system-wide basis. The Group will advise on the appropriate 'direction of travel' for high secure services, taking account of the requirements of the wider NHS and criminal justice system. The Group is not a statutory or executive body, nor does it have a budget with which to commission any activity. But if there is concern about the appropriateness of the response of *any* part of the high secure system, the chair of the Group may communicate those concerns directly to the Minister.

As a strategic advisory body, the Group will ensure that appropriate processes for policy development, commissioning and performance management are in place and working effectively, in the delivery of a national high secure system. The separation of commissioning and policy roles and the framework for the performance management of high security hospitals enables it to have this separate role.

In order to carry out this role, the Group must be fully informed by commissioners on effectiveness, modernisation plans, service planning and service development issues, including capital programmes, utilisation of capacity, comparisons of costs and how the commissioning of high secure services is affected by, and having an effect on, commissioning of medium, low and other related mental health services. The Group also needs to be informed about relevant developments in the criminal justice system.

Via commissioners, the Group will also receive a comprehensive picture of operational performance issues including steps taken by providers to ensure equity of outcome and experience.

The Group will be informed of future demand and capacity requirements for high, medium and low secure services in England and Wales and will ensure that adequate consultation and planning is in place to maintain high quality responsive high secure hospital services.

Role of the National Oversight Group

The National Oversight Group will:

- Form a view concerning whether the Secretary of State's responsibilities under Section 4 of the NHS Act 2006 are being properly discharged¹;
- Advise the Welsh Assembly Government about provision of high secure services in relation to Wales, so that the Welsh Assembly Government may take a view on the discharge of the Welsh Minister's functions under the National Health Service (Wales) Act 2006;
- Receive evidence through commissioners that there are in place:
 - Robust commissioning arrangements;
 - Effective integration of the pathways in and out of high secure care;
 - Equity of provision for all patients admitted to high secure hospitals; and
 - Equity in the access to and egress from high secure hospitals.
- Support the three Strategic Health Authorities (SHAs) within whose area the high secure providers are located to develop effective operational performance management and to consider any significant performance management issues arising with a specific high secure provider;
- Ensure the dissemination of learning across the high secure sector;
- Ensure that security and public protection issues are addressed and receive reports from the Clinical Secure Practice Forum²;
- Take an overview of provision to be satisfied that capacity is sufficient and services are being effectively delivered;
- Advise on the wider policy/ political context in which services should be planned;
- Encourage and support the pursuit of the integration with the criminal justice system and to engage in the wider public protection agenda;
- Review commissioning reports and strategic intent from commissioners and receive risk assurances from the SHA performance managers; and
- Provide assurance against delivery of the High Secure Business Continuity and Transition Plan.

¹ The 2006 National Health Services Act imposes a specific duty on the Secretary of State for Health to provide high secure hospital services in England. Due to the complex requirements of these services and the wider concerns around public safety, it is essential for the Secretary of State to have an unimpeded *line of sight* to the Trusts and hospitals directly responsible for providing high secure hospital services for patients from England and Wales. Essentially this means that the Secretary of State must be able to hold local services directly accountable and can issue direct instructions to the service. This requires she/he to be able to obtain an accurate assessment of the current situation at any time regarding both individual issues and the operation of the system as a whole, so that direct action can be taken if deemed necessary. Through the 2006 Health Service Act, the Secretary of State has *powers of direction* which enable her/him to intervene in a high secure hospital in matters of management, security, service provision or capacity. The Health and Social Care Bill 2011, subject to Parliamentary approval, contains provision for the Secretary of State to continue to direct high secure providers and commissioners in relation to high secure provision in England.

² The Clinical Secure Practice Forum is a formal sub-group of NOG and its terms of reference for CSPF can be found at: http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_103353

Relationship between the National Oversight Group and Department of Health

The Secretary of State for Health's responsibilities for high secure services and those of the Welsh Ministers, under the respective NHS Acts of 2006 for England and Wales, are carried out on a day-to-day basis by Department of Health and Welsh Assembly Government policy officials. It is for DH to set the policy framework and direction for high secure services in England taking proper account of Welsh Assembly Government's requirements. The National Oversight Group's role is to comment and advise on policy decision-making without having policy decision-making authority or accountability.

Chair of the National Oversight Group

The Chair of the National Oversight Group should be independent and is appointed as a Committee member by the Department of Health.

In order to provide additional reassurance to Ministers relating to the exercise of 'line of sight' functions and where the Chair of the Group is sufficiently concerned about the appropriateness of the response of *any* part of the high secure system, the Chair may communicate those concerns directly to the Minister.

Frequency of Meetings

Meetings will be held quarterly in March, June, September and December. The meetings will be administered by the Department of Health.

Outputs from the National Oversight Group

On an annual basis the National Oversight Group will provide a report of its activities to the Secretary of State for Health and the Minister for Health and Social Services of the Welsh Assembly Government. This report should set out how the Group has exercised its functions through the terms of reference by taking available information, assessing and forming a view of that information and providing assurance to the Secretary of State and his/her Ministers and Ministers in the Welsh Assembly Government and advising policy officials, commissioners and others. The report should also demonstrate that the Group has taken a longer-term strategic view of the high secure hospital system, and balanced that against the broader NHS and criminal justice agendas, learning from international practice as appropriate in order to inform system management and development. The Group should also comment on the completion of required Equality Impact Assessments, and the appropriateness of responses to them.

Membership of the National Oversight Group

The National Oversight Group is a high-level group consisting of senior members who may fulfil both a personal and organisational role in attending. In order to fulfil the horizon scanning and advisory function of the Group, wherever possible named members should attend rather than send deputies or representatives. Attendance at the Group does not replace the use of normal mechanisms to address issues of concern between any parts of the system.

The membership of the Group will be kept under regular review to ensure that it remains appropriate during the period of planned NHS reform.

The Group's members include:

- Representatives of the three Chief Executives of the SHAs accountable for the operational performance management of high secure hospitals;
- A senior representative of specialised commissioning;
- The Director of Mental Health (Department of Health);
- Secure Services policy lead (Department of Health);
- Head of Secure Services Transition;
- Chief Executives from the three provider Trusts;
- A representative of Welsh Assembly Government (Welsh Assembly Government);
- A representative of the Faculty of Forensic Psychiatry;
- A senior representative from the Mental Health Casework Section (National Offender Management Service (NOMS));
- The Director of Offender Health (Department of Health & NOMS);
- A senior representative from the Ministry of Justice;
- Independent clinical advice; and
- Independent security advice.

Annex B

National Oversight Group Terms of Reference from 2013

Purpose

The legislative arrangements for high secure services are set out in Section 16 of the Health and Social Care Act 2012, which amends Section 4 of the NHS Act 2006.

It provides that:

- The NHS Commissioning Board must arrange the provision of high secure psychiatric services;
- Secretary of State for Health must approve providers of high secure psychiatric services;
- Secretary of State may give directions to providers in relation to their provision of high secure services; and
- Secretary of State may give directions to the NHS Commissioning Board (NHS England) about the exercise of their functions in relation to high secure services.

Introduction

The National Oversight Group is a non-statutory group, however it brings together key groups (NHS England, providers, Department of Health, Ministry of Justice, Welsh Assembly Government) to advise NHS England and assist in fulfilling 'line of sight' responsibilities.

The Group will focus on interpreting policy and context across England and Wales as it applies to high secure services on a system wide basis. The Group will advise NHS England on the appropriate 'direction of travel' for high secure services, taking account of the requirements of the wider NHS and criminal justice system. The Group does not have a budget to commission any activity. If there is any concern, regarding the operation of the system or services provided, the independent Chair of the Group may communicate those concerns directly to the NHS England named Executive Director.

As a strategic advisory body, the Group will ensure appropriate processes are in place and working effectively for NHS England to fulfil its role and comply with the Directions given by the Secretary of State for Health. In order to fulfil its role, the Group needs to be fully informed of system effectiveness, development plans, service planning, capital cases requiring NHS England approval, capital programmes, utilisation of capacity, costs and decisions that may impact on other related services for example secure service pathway or criminal justice services.

The Group will receive a comprehensive briefing on performance issues including steps taken by providers to ensure equity of access, treatment, outcome and experience.

The Group will be informed of future demand and capacity requirements for secure services and will ensure adequate consultation and planning is in place to maintain high quality responsive high secure hospital services.

The three Trusts with responsibility for high secure services are applying for Foundation Trust status. The NHS Trust Development Authority has a role to oversee NHS Trusts and recommend to Monitor that they should be considered for Foundation Trust status.

In order to ensure a whole system approach to high secure services the NTDA (for as long as they are involved), Monitor and the CQC will be invited to be members of NOG.

Role of the National Oversight Group

The National Oversight Group will:

- Advise and support NHS England on compliance with their duties outlined in the High Security Psychiatric Services (National Health Service Commissioning Board) Directions;
- Receive evidence that there are robust commissioning arrangements in place with:
 - Effective integration of the pathways in and out of high secure care;
 - Equity of provision for all patients admitted to high secure hospitals; and
 - Equity in access and egress to and from high secure services.
- Ensure the dissemination of learning across the high secure system;
- Support NHS England in carrying out 'line of sight' functions and consider any significant performance issues arising with a specific high secure provider;
- Ensure that security and public protection issues are addressed and receive reports from the Clinical Secure Practice Forum;
- Advise on the wider strategic approach in which services should be planned;
- Encourage and support the pursuit of the integration with the criminal justice system and to engage in the wider public protection agenda;
- Ensure high secure services are fully involved in developing pathways into and out of secure care;
- Horizon scan identifying policy or legislative change that may impact on the provision of high secure service; and
- Contribute to the annual report NHS England must send to the Secretary of State on how it has exercised its functions in relation to high security psychiatric services during the year.

Chair of the National Oversight Group

The Chair of the National Oversight Group should be independent and is appointed by NHS England.

In order to provide additional reassurance to NHS England, the Chair will have direct access to the Executive Director with specific responsibility for exercising Board responsibility and will form part of the annual assurance process to the Secretary of State for Health.

Frequency of Meetings

National Oversight Group meetings will be held quarterly and administered by NHS England's Executive Director's team.

Membership of the National Oversight Group

The National Oversight Group is a high-level strategic group providing advice to NHS England and accountable to the Executive Director responsible for high secure services.

Wherever possible, named members should attend rather than send deputies or representatives. Attendance at the Group does not replace the use of normal mechanisms to address issues of concern between any parts of the system. Membership of the Group will be kept under regular review.

The members include:

- Independent Chair;
- Independent Security Advisor;
- NHS England Director of Commissioning;
- NHS England Assistant Head of Specialised Services (Mental Health and High Secure Services);
- NHS England Regional Directors from the three regions responsible for high secure services;
- NHS England National Clinical Director for Mental Health Services;
- NHS England Mental Health Portfolio Director (Chair of the Clinical Secure Practice Forum);
- Independent Clinical Advisor;
- A representative of the Faculty of Forensic Psychiatry;
- NHS Director responsible for Operational Delivery and Resilience;
- Chair of the Secure Service Pathway Clinical Reference Group;
- A representative of the Welsh Assembly Government;
- Chief Executives from the three provider Trusts;
- Department of Health Director of Mental Health;
- A senior representative from the Mental Health Casework Section;
- A senior representative from the Ministry of Justice;
- National Health Service Trust Development Authority representative (as long as applicable);
- Monitor representative; and
- Care Quality Commission representative.

In attendance:

- A representative from NHS Scotland.

Review

These Terms of Reference will be subject to review on an annual basis.