

Anti-Violence Collaborative Wales

Obligatory Responses to Violence in Healthcare (ORV)
Part 2: Guidance Document



Partneriaeth
Cydwasaethau
Gwasanaethau Cronfa Risg Cymru
Shared Services
Partnership
Welsh Risk Pool Services



Grŵp Cydweithredol Cymru dros atal Trais
Anti-Violence Collaborative Wales

ORV PART TWO

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2.1 Incident Reporting

NHS Wales health bodies will endeavour to ensure all incidents involving violence and aggression (V&A) are reported on Datix Cymru, investigated promptly and reported to the police where appropriate.

Effective incident reporting is fundamental to the success for management of V&A issues. Although practical difficulties may arise, staff should be encouraged, supported and empowered to report these incidents.

NHS staff can always report violent and aggressive crime directly to the police using 999 (for urgent matters) and 101 (non-urgent matters). Police online reporting systems are also available and should be used where appropriate. If the incident suggests that there are safeguarding concerns, the reporter should ensure that the NHS Wales body's Safeguarding Team are made aware, and that internal processes are followed.

All Datix Cymru incident reports involving V&A upon staff should be reviewed by NHS Wales health bodies in order to provide appropriate support to the reporting staff member and to assist in the management of risk highlighted in the report.

2.2 Police Response

Police will grade reported incidents on a case by case basis, dependent on information provided.

In order to progress cases effectively, information should be provided to the police as quickly as possible. The police are responsible for conducting thorough and prompt investigations. Police will update the victim as the investigation progresses (see section 2.7).

The Investigating Officer must first determine whether there is sufficient evidence of an offence being committed and then determine whether it is in the public interest to prosecute.

Incidents in Mental Health/Learning Disability Units

The College of Policing Authorised Professional Practice (APP) provides guidance to Investigating Officers on mental health. This provides support for police when investigating suspects who may be experiencing a mental health condition.

Any health condition impacting upon the suspect is a relevant consideration when investigating an offence. Where appropriate details should be provided to the investigating officer.

An example of a form for providing information relating to people with a mental disorder or learning disability is provided in **Annex D (Form G)**. Such forms may be disclosed to the defence as part of the disclosure of unused material. Such forms are intended to assist initial decisions on investigations. This information can be provided by registered nurses as well as doctors.

While a number of cases involving people with mental disorders or learning disabilities will relate to incidents where the suspect had the necessary intent to be held responsible for their actions, there will be some exceptions. Cases involving serious or repeated violence, where the offending behaviour is directly caused by a mental disorder or learning disability, may be reported. This will usually occur where it is felt that intervention by the criminal justice system should be considered to protect NHS staff or the wider public.

If NHS staff report incidents where they believe the suspect lacked the intention to commit the crime at the time of the incident, this should be clearly stated along with the reason for reporting within **Form G**.

Arrests on NHS premises

The decision to arrest is a matter for the Police Officers in attendance. NHS staff should be prepared to disclose any information surrounding the suspects medical background. This will include any known risks that an arrested person may pose to the police, and must include any information relating to the person's health that the police may require in order to discharge their duty of care to those involved. It is the responsibility of the NHS to ensure that staff are aware of their responsibilities and the policy framework regarding the disclosure of information.

The NHS Wales V&A Case Manager or equivalent staff should give the appropriate support to the police during investigations in an NHS healthcare setting.

2.3 Investigation

NHS assistance for investigations

NHS Wales V&A Case Manager or equivalent staff will liaise with the Police Investigator, and can assist in the investigation, such as:

- details of work patterns and work contact details of witnesses.
- a description of a suspect who has left the scene before the police have arrived.
- details of previous incidents and police attendances involving the same individual(s).
- retention of any weapons used.
- photographs or reports of injuries suffered.
- seizure and preservation of CCTV footage.
- initial information on mental disorder issues.
- details of the victim and witnesses.

Witness statements and evidence gathering

It is the role of the Police Investigator to interview witnesses, take statements and gather evidence.

Victim Personal Statement

The Police Investigator can obtain a victim impact statement with the consent of the victim. The Prosecutor can ask the court to take into account the statement when an offender is being sentenced to provide the court with a full and up-to-date picture of the impact of the offence on the victim.

Service Impact Statements

A 'Service Impact Statement' can be prepared where appropriate and made available to the Police Investigator. This statement provides details of the impact that such incidents have had on the hospital, staff and patient care and can refer to past incidents.

Details to be included in the statement should be information which highlights cost and inconvenience caused to the service, such as impact on staffing levels, provision of service to patients and damage to equipment, and if possible, the cost of security staff and equipment to respond to such incidents. It should also highlight if appropriate that essential services have been diverted from those in need.

These statements will assist the court in sentencing and provide a wider understanding of the impact of the offending. The content will depend on the nature of the service provided by the NHS Wales health body e.g. general hospital, ambulance, mental health, Primary Care.

An example of a service impact statement is provided in **Annex F**.

Bail conditions

When investigating incidents on NHS premises, the police will ascertain whether there is any information to suggest that a suspect may pose an ongoing threat to NHS staff or services. In such cases, consideration should be given to imposing bail conditions, and it is important that all parties are made aware of any conditions imposed.

2.4 Decision on Prosecutions

The parties agree that the police will undertake to investigate and refer cases to the Crown Prosecution Service (CPS) as required under the Directors Guidance on charging.

Decision to prosecute

It is the duty of police and prosecutors to ensure that the law is properly applied in accordance with the principles set out in the Code for Crown Prosecutors (the Code) in addition with CPS policy and guidance. The Code is available on the CPS website:

[The Code for Crown Prosecutors | The Crown Prosecution Service \(cps.gov.uk\)](https://www.cps.gov.uk)

Aggravating factors in offences involving NHS staff or on NHS premises

The fact that an offence has been committed against a person serving the public will be considered an aggravating factor. There is a strong public interest in maintaining the effective provision of healthcare services.

In sentencing, which is a matter for the court, they will consider the facts of the case, applying the relevant sentencing guidelines. Sentencing guidelines can be obtained on the following link:

[Sentencing guidelines – Sentencing \(sentencingcouncil.org.uk\)](https://www.sentencingcouncil.org.uk)

Prosecution of people with mental disorder and/or learning disability

Some reported acts of violence, abuse and threats of violence against NHS staff may be committed by those who may have a mental disorder. Guidance for prosecutors is applied in each case taking into account specific circumstances. A copy of the guidance can be found on the following link:

[Mental Health: Suspects and Defendants | The Crown Prosecution Service \(cps.gov.uk\)](https://www.cps.gov.uk/mental-health-suspects-and-defendants)

Compensation

When the victim has been injured or has suffered financially, or the relevant NHS body has suffered financial loss or damage, the CPS will:

- ensure that the information provided by the police on compensation claims is sufficient for the court to make a compensation order if it wishes;
- remind the court of its power to award compensation in cases where there is no financial loss (e.g. personal injuries sustained); and
- remind the court that it must give reasons if a compensation order is not made if the case is one in which an order may have been possible.

When the CPS decides not to prosecute

Where a decision is made not to prosecute or stop a prosecution, the complainant can ask for a review of that decision. This can be raised within the Victims Right to Review Scheme, details can be found on the following link:

[Victims' Right to Review Scheme | The Crown Prosecution Service \(cps.gov.uk\)](https://www.cps.gov.uk/victims-right-to-review-scheme)

2.5 Out of Court Disposals

Section 7 of The Code for Crown Prosecutors directs that an out-of-court disposal may take the place of a prosecution in Court if it is an appropriate response to the offender taking account of the seriousness of the offending.

2.6 Updates to NHS Wales V&A Case Manager or equivalent staff

The NHS Wales V&A Case Manager or equivalent staff will liaise with the relevant police service to provide the following information if it is considered appropriate:

- ➔ details of any person arrested (i.e. name, date of birth and address).
- ➔ details of any bail conditions imposed which relate to the protection of NHS victims or witnesses or restrictions on attending NHS premises.
- ➔ details of any out of court disposal imposed or cases where no further action is to be taken.
- ➔ details where any person is charged or summonsed details of the initial court hearing.

2.7 Support of Victims or Witnesses

Victim/witness communication

The police and CPS are bound by guidance and codes of practice on communications with victims and witnesses. NHS Wales V&A Case Manager or equivalent staff can assist by advising the police about the availability of staff witnesses e.g. for statements.

If effective and timely communication proves problematic (and if the victim and witnesses have given written consent) the NHS Wales V&A Case Manager or equivalent staff may receive and pass on information about: the progress of a police investigation; about CPS decisions on charging or prosecution, and about the consideration of non-court disposals.

The NHS Wales V&A Case Manager or equivalent staff has a role in monitoring investigations and prosecutions. Written consent will not be required for updating the NHS V&A Case Managers on the progress of the case; it is only required if the NHS V&A Case Manager takes on the responsibility for updating the victim of progress.

NHS Wales V&A Case Managers or equivalent staff, the CPS and the police should agree what format any written consent should take. Where appropriate, the Case Manager will endeavour to obtain consent and provide it to the police and the CPS at the earliest opportunity. Suggested content for a consent form is in **Annex C**.

If after a suspect has been charged the CPS makes a decision to substantially alter or stop the offence, the victim will be notified directly.

Witness Care Units

Police Witness Care Units (WCUs) are responsible for supporting victims and witnesses and keeping them informed about progress of their case. A Witness Care Officer will:

- ➔ discuss and agree with victims the level of contact and support they would like during the life of the case and how these requirements will be met.
- ➔ explain to victims the purpose of the detailed needs assessment and give them the opportunity to complete one.
- ➔ contact victims and witnesses who have been identified as vulnerable or intimidated, or as having particular support needs, to discuss what support they may need.

In addition, the Witness Care Officer will inform all victims and witnesses required to attend court of:

- ➔ the trial date, the location of the court and discuss any concerns about attending court.
- ➔ any relevant changes to the defendant's custody status or bail conditions, the outcome of special measures applications that relate to them and also if the case is discontinued.

At the end of the case, the Witness Care Officer will inform all victims and witnesses of the final result and the sentence if appropriate.

Victim care during progress of a case

The Prosecutor will always address the specific needs of a victim or witness such as whether any special measures are required to assist in giving evidence. Before every trial, Prosecutors will consider whether it is absolutely necessary to require the attendance of a witness.

Where possible, witness evidence will be agreed, however often where the offence is denied, witness attendance will be required.

Special Measures

Where a victim, who is to be called a witness in criminal proceedings, has been identified as potentially vulnerable or intimidated, Special Measures may be applied to assist them in giving evidence at court. These may include giving evidence behind a screen or via a TV link.

It is the role of the Police Investigator to establish at an early stage whether a witness is likely to qualify for a Special Measures Direction and, if so, which particular measures will assist. The views of the victim will be important and will be considered carefully. The CPS has the responsibility to apply for special measures, but it is for the court to determine.

The WCU will ensure that any change of circumstances that may affect the victim's decision on Special Measures is communicated. NHS Wales V&A Case Managers or equivalent staff will help to identify when Special Measures need to be considered.

2.8 Data Protection & Confidentiality Issues

As the disclosure of information must comply with data protection principles it must be decided and justified on a case-by-case basis, the CPS, NHS Wales health bodies or police cannot 'pre-authorise' disclosure.

The Information Commissioner has identified that disclosures of relevant information to the police in connection with assaults on staff would, in general, be in accordance with Data Protection legislation (see Information Commissioner's guidance "The Use and Disclosure of Health Data").

As with data protection issues, no blanket authority for disclosures that may breach a duty of confidentiality can be given by national bodies, as each disclosure will have to be considered individually. It is accepted that certain professions have to abide not only by national guidance but also by that of their regulatory or professional bodies.

It is acceptable to breach confidentiality if doing so can be justified as being in the public interest.

Medical information must only be sought and disclosed if it is relevant to the investigation or prosecution of offending behaviour. Disclosure may be permitted with the victim's consent. Disclosure of identity information to the police investigating an offence against NHS staff is not considered to be disclosure of confidential information.

In general, the parties agree that the disclosure of information in the scenarios considered in this document will be legitimate. Where disclosure is necessary and proportionate and may be obtained without the victim's consent for one or more of the following purposes:

- ➔ the prevention and detection of crime.
- ➔ the apprehension and prosecution of offenders.
- ➔ the early identification of cases which would be suitable for diversion from the criminal justice system.
- ➔ the assessment of risk to inform action to protect the health and safety of NHS staff, patients, visitors, Police Officers and other police, CPS and court staff disclosures in connection with legal proceedings or seeking legal advice.⁶

If the police or CPS encounter difficulties in accessing information because NHS staff have concerns about confidentiality or data protection, they should contact the NHS Wales V&A Case Manager or equivalent staff.

⁶ Section 115 Crime and Disorder Act 1998

The absence of agreements should never be a barrier to the timely sharing of risk information in specific cases.

2.9 Information Sharing

There are existing avenues for the routine information sharing of intelligence, risk information and statistics, some of which will be on a statutory basis (e.g. Community Safety Partnerships, Local Safeguarding Children Boards).

The parties will examine where existing information sharing agreements may be deficient, particularly where they may not adequately address individual or urgent cases for example:

- ➔ provision of information in relation to missing persons and absconded detained patients and response to incidents.
- ➔ details of persons who may pose a particular risk to NHS staff or police.
- ➔ arrangements for the transfer of persons to and from NHS premises and police stations or court premises.

WASPI – The Wales Accord on the Sharing of Personal Information

Where there is a regular exchange of information the parties will utilise the WASPI framework to create Information Sharing Protocols.

All parties will take a proactive approach to information sharing where they have identified a potential threat to the safety of staff, the public or specific individuals.

Annex A - Who does the ORV apply to?

Help for Victims

The victims of assaults covered by this agreement are all NHS staff, volunteers, agency staff, bank staff and students on placement; and aren't limited to the examples provided below. The purpose of this guidance is to give as broad a support as possible and also with consideration to the [Assaults on Emergency Workers' \(Offences\) Act 2018](#).

Hospital staff

Doctors; Surgeons; Nurses; Midwives; Therapists; Pharmacists; Dieticians; Podiatrists; Dentists; Speech Pathologists; Clerks; Receptionists; Porters; Technicians; Managers, Support staff; Domestic; Catering; Maintenance staff (Work & Estates); Security.

Ambulance staff

Paramedics; Technicians; Emergency Care Assistants; Patient Transport staff; Call handlers / Emergency Medical Dispatchers; Managers and Office staff.

Community staff

Nurses; Support staff; Therapists; Midwives; Social Workers; Managers; Receptionists

Primary Care staff

General Practitioners; Pharmacists; Paramedics; Dentists; Opticians; Support Workers working within those environments

If you are a victim of V&A falling under one of these categories then you should be aware of the following information which outlines what you can expect as a result of this agreement:

This is how we try to keep you safe

When NHS staff report incidents involving V&A, we can identify repeated problems and use this information to manage risks and prevent further assaults. This is why it is so important that you report an incident if you are a victim or witness of an incident in work. We provide the relevant training to staff that we feel are a risk of being victim to V&A with the aim of better equipping you for such a situation. NHS Wales health bodies are required to comply with the direction of the Welsh Health Circular 2024 (**Annex B**).

Annex B Welsh Health Circular

Welsh Health Circular 2021/012 will be replaced by Welsh Health Circular 2024 when this is released shortly.

Annex C Victim/Witness Consent Form for Disclosure of information

Health Board/ Trust:	
Alleged offender details (if known)	
Location:	
Police log and/or Crime Reference no:	
Police Officer details:	
I, [insert name and date of birth of victim] am the victim/witness of the above incident. I give my consent for [insert name of police service/CPS office] to provide information relating to the above incident directly to [insert details of the Case Manager (or named appropriate person) of health board/trust]. I also consent for the Police and/or CPS to provide updates on the progress of the case to [the Case Manager (or named appropriate person)] if they are unable to contact me directly.	
Signed:	Date:
I, [insert NHS V&A Case Manager or equivalent staff name] agree to receive information on behalf of the above and accept responsibility for passing this information on promptly.	
Signed:	Date:
Date received and logged on Police record:	
Police Officer Signature:	

Annex D

Mental Health Initial Guidance Form (Form G)

Police Investigation: guidance where the mental health condition of the suspect should be assessed.

To be provided to the police by appropriate NHS staff member.

HS Incident Reference No/Datix:			Alleged Offence:		
Incident Date:			Incident Time:		
Victim Name(s):					
Location of Incident:					
Details of Incident:					
Name(s) of witnesses:					
Does victim consent to contact from NHS Wales V&A Case Manager or equivalent staff member?					
Tick yes or no		Yes		No	
If Yes, provide Contact no:					
HEALTHCARE PROFESSIONAL COMPLETING THE FORM					
Name:			Job title:		
Contact No:			Email address:		
SERVICE USER DETAILS					
Name:			Date of Birth:		
Service User No:					
Address if not in-patient:					
Detained under Mental Health Act 1983?					
Tick yes or no		Yes		No	
If Yes, Section 2 or Section 3 etc:					

Annex D
Mental Health Initial Guidance Form (Form G)

Strictly Confidential— incident medical report

This part of the form is for use by the police/CPS in making initial investigation/prosecution decisions and is not intended to replace the need for witness statements and reports should the matter proceed to court. This completed form has the potential to be disclosed to a court.

Service User’s Mental State: please use your professional judgement and opinion to answer the questions below related to the service user above. This form can be completed by a Registered Nurse or Doctor.

Would you consider the service user at the time of the alleged offence was capable of understanding their actions?

Tick yes or no and give opinion/example why:	Yes	No
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Comment:

Would you consider the service user at the time of the alleged offence was capable of controlling their actions?

Tick yes or no and give opinion/example why:	Yes	No
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Comment:

Would you consider the service user is capable of understanding the legal process if a prosecution is sought (such as what they are being accused of and giving a lawyer instructions should the matter be referred to court?)

Tick yes or no and give opinion/example why:	Yes	No
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Comment:

Would you consider that a prosecution of the service user would be detrimental to their care plan?

Tick yes or no and give opinion/example why:	Yes	No
--	-----	----

Signed:	
Print Name:	
Job Title	
Date:	

Attending Police Officer Details	
Name:	Collar Number
Name:	Collar Number
Police Event/Reference Number:	

NHS Wales Case Manager details or equivalent staff		
Mobile:	Desk:	Email:

Please ensure a copy is provided to the police.

Annex E Mentally Vulnerable Offenders Form

This form can be found within the 'Obligatory Responses to Violence in Healthcare' (ORV) agreement, Part 2, Annex E.

Police request for information from the health service.

In order to make a full assessment of whether an individual accused of offending should be arrested, charge or diverted from the criminal justice system, the following information is sought by the police where available from the NHS (or other healthcare provider).

Insert details of alleged offender and incident:

Investigating Officers should delete, if not appropriate to the investigation:

- What is the Physician's or Psychologist's opinion on prosecution? Are there any clinical barriers to it? Provide an outline of the care management plan should a prosecution not occur.
- Any known previously unreported offending, relevant to the current investigation.
- Any previous history of absconding from psychiatric care.
- Any known failure to return from s17 MHA leave.
- Any known relevant failure to comply with care plans, including any medication programme.
- Information concerning any intended criminal offending.
- Information concerning any continued threats to the health and safety of any person.
- What is the person's legal status under the Mental Health Act 1983?

This information is requested in furtherance of a criminal investigation into an offence of **[please state]**. This information is directly relevant to whether or not criminal charges are brought and/or whether bail is appropriate; decisions which are required of **[insert name of police force]** by the Police and Criminal Evidence Act 1984. **Provide any additional relevant information/reasons, including confirmation of why disclosure is required now:**

Reference No (custody/crime):

Officer's signature.....

Further notes in support of the request (Investigating officer)

Reference No (custody/crime):

Officer's signature.....

Annex E
Mentally Vulnerable Offenders Form

Notes from Physician or Psychologist to the above request:

Signature:.....Time/date:.....

Name:.....

Professional Position:.....

Annex F Example— Service Impact Statement

WITNESS STATEMENT				
Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B				
URN				
Statement of:				
Age if under 18:			Occupation:	
Which language would you prefer to give your evidence in: ENGLISH				
Which language would you prefer to give your oath in: ENGLISH				
This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.				
Signature:		Date		
Tick if witness evidence is visually recorded (supply witness details on rear).				
<p>I am the [Insert Job Title] and have responsibility for [include remit of responsibility] across the area. In order to execute my duty I must rely upon the actions of a large number of NHS staff members, contractors and volunteers who provide care and treatment for all members of the community and also to visitors of the area. They do so in order to make a Healthier Place through caring for communities and delivering excellent care.</p> <p>In providing this statement I hope that it will assist in my duty to protect the members of the organisation that provide the public with essential healthcare services.</p> <p>All too often NHS staff are subjected to assaults and threats. While the severity of such attacks changes, the impact upon society does not. It is never acceptable to assume that assaults upon NHS staff should be in any way tolerated; such attacks are not simply 'part of the job'. While it is clear that the nature of healthcare requires members of the organisation to handle difficult and hostile situations, assaults and abuse directed upon them are serious and unacceptable.</p> <p>The sentencing guidelines reflect this fact and highlight that assaults on public officials performing their duty are an aggravating feature. There are many ways in which assaults against public servants impact upon society. Each time NHS staff are assaulted and abused there are potential sickness absences implications and the halting of service delivery through damage and disruption caused to clinical and non-clinical areas.</p> <p>These absences and disturbances impact acutely upon resourcing and the ability of the NHS to deliver "quality services & treatment" catastrophic consequences for the most vulnerable members of the community. They also place additional strain on other members of the organisation due to the transfer of work to others, which can have significant impact on the wellbeing of NHS staff.</p> <p>We continue to see an increase in the number of assaults on NHS staff and recently recorded incidents which affected staff.</p>				

Annex F

Not only do assaults and abuse upon NHS staff have a negative impact on the community but also internally to the organisation. On a personal basis, staff suffer not just physical injuries, but also the psychological effects. Many find the return to frontline duties after being assaulted and abused especially challenging or traumatic. On a wider scale, morale is significantly impacted when NHS staff see their friends and colleagues being assaulted and abused. This, in turn, can damage the ability of the NHS to recruit new people into the organisation.

The public call upon the NHS to help them when they are most in need. We have a duty to protect the public but we are all too often prevented from doing so due to violent individuals who choose to attack those who are there to help them.

Most importantly it should be remembered that NHS staff are people, they are fathers, mothers, sons and daughters. When they are attacked they become victims just like any other.

This case relates to the assault of **(insert employee details here)** who was assaulted during the execution of their duty.