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Collaborative Working and Joint Working: A toolkit for industry and NHS Wales

December 2021

Jointly published by
ABPI Cymru Wales and the
Welsh NHS Confederation



The Association of the British Pharmaceutical Industry (ABPI) exists to make the UK the best place in the world to research, develop and use new medicines. We represent companies of all sizes who invest in discovering the medicines of the future.

Our members supply cutting edge treatments that improve and save the lives of millions of people. We work in partnership with Government and the NHS so patients can get new treatments faster and the NHS can plan how much it spends on medicines. Every day, we partner with organisations in the life sciences community and beyond to transform lives across the UK.

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The Welsh NHS Confederation is the only national membership body representing all the organisations making up the NHS in Wales: seven Local Health Boards, three NHS Trusts, Digital Health and Care Wales, and Health Education and Improvement Wales (HEIW). We are also part of the NHS Confederation.

Our mission is to be the authentic voice of the NHS leadership in Wales. We aim to support our members in improving the health of the population and the planning and delivery of high-quality health care.

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Introduction

We are both agreed that a lot has happened since we published our toolkit to support joint working between NHS Wales and the pharmaceutical industry nearly two-years ago. When we stood together in February 2020 to launch the first iteration of this publication, COVID-19 was still thought to be a problem the other side of the world. We now know that this changed quickly and with devastating consequences for so many of us.

However, we have seen some positives emerge from the last year; we've talked more about innovation in, and transformation of, our health and care services in Wales than at any other time. We've seen the way we deliver services in Wales change, sometimes beyond all recognition and everyone is agreed that it sets us on the right path to deliver patient care, which is safe and sustainable across the whole of our country for the years ahead.

What is Collaborative Working and when is it appropriate?

Collaborative working, which either enhances patient care or is for the benefit of patients or alternatively benefits the NHS and, as a minimum maintains patient care, is acceptable to the regulator of the branded pharmaceutical industry, the Prescription Medicines Code of Practice Authority (PMCPA) providing it is carried out in a manner compatible with the latest edition of the ABPI Code

Collaborative working is generally between one or more pharmaceutical companies, healthcare organisations and possibly other organisations, which may include the third sector or social enterprises. It must have, and be able to demonstrate, the pooling of skills, experience and / or resources from all the parties involved. There must be a shared common purpose. (e)-9.4 0

Joint Working is defined in the DH Joint Working Guidance and Joint Working Toolkit as:

Situations where, for the benefit of patients, one or more pharmaceutical companies and the NHS pool skills, experience and / or resources for the joint development and implementation of patient centred projects and share commitment to successful delivery.

ABPI Guidance notes states: The key requirements from this definition are two-fold:

(i) the Joint Working project must be focused on benefits to patients; and

(ii) there must be a pooling of resources between the pharmaceutical company or companies and the NHS organisation(s) involved. Each party must, therefore, make a significant contribution to the joint working project to avoid the arrangement being construed as merely a gift, benefit in kind, donation or some other non-promotional commercial practice. Resources may come in various forms, including people, expertise, equipment, communication channels, information technology, and finance.

In addition, given the significant governance and administrative requirements involved in setting up proper joint working arrangements, it is likely that most joint working projects will be of a significant size and duration – as a guideline, generally involving resources (manpower, materials, funding etc) in the region of £15,000 - £20,000 and lasting 6 months or more. Ideas for Joint Working projects can arise from either party, hence pharmaceutical

Included below are some examples of joint working, to show the range of different opportunities open to this subset of collaborative working. They include, but are not limited to,

- facilitation of pathway redesign
- economic analysis
- funding of project staff requirements (e.g., provision of administrative, clinical, analytical health economic and / or management resources by either party)

Both Collaborative and Joint working projects should aim to deliver ‘triple wins’ in the form of benefits to patients, the NHS and the pharmaceutical company (or companies) involved. However joint-working projects MUST be patient-centred and always benefit patients. These new ways of working provide a platform for a key part of the Welsh Government’s long-term plan for health and social care, A Healthier Wales⁸As the introduction to the plan outlines,

“We will need broader and deeper partnerships, new skills and ways of working and we will need people to take more responsibility for their own health and wellbeing.”

Both the NHS organisation and the company (or companies) involved must clearly set out the anticipated benefits in advance of embarking on a project and may consider quantifying these as projected returns on investment (ROI). Potential benefits of collaborative and joint working include:

For patients:

- Care closer to home
- Fewer hospital admissions
- Better information about conditions and treatment options
- Better experience of the healthcare system

For NHS Wales:

- Higher quality care
- Services configured around patient needs
- Better health outcomes
- Better use of resources in line with Value Based Healthcare / Prudent Healthcare agenda
- Lower hospital admissions

For the industry partner:

- Potential expansion of the relevant and eligible patient population as a result of the activity
- Increase in the appropriate use of medicines aligned to local or national guidance
- Better understanding of the challenges faced by the NHS in delivering high-quality patient services and care
- Faster implementation of NHS policy which may be relevant to an organisations business

All forms of collaborative and joint working must be underpinned by a formal written agreement, an executive summary of which must be made publicly available before the project begins.

Agreements must:

- take place at a corporate / organisational level
- not take place with individual healthcare professionals out with their organisational structure
- include an exit strategy, contingency arrangements, clear milestones, and a commitment to measure, sustain, and document outcomes to facilitate replication and scaling across the NHS

Each party must make a significant and defined contribution to the project, and transfers of value made by companies must be publicly disclosed. Contribution of resources may come in various forms, including people, expertise, equipment, communication channels, information technology, and finance. Further governance guidance is also contained in the ABPI Code and can be explored in interactive form on the Prescription Medicines Code of Practice Authority (PMCPA) website⁹

⁸ <https://gov.wales/healthier-wales-long-term-plan-health-and-social-care>

⁹ <https://www.pmcpa.org.uk/media/3406/2021-abpi-code-of-practice.pdf> (Clause 20.3)

¹⁰ For a definition of Transfer of Value (ToV) please refer to <https://www.abpi.org.uk/reputation/disclosure-uk/about-disclosure-uk/definitions/>

¹¹ <http://www.pmcpa.org.uk>

1. Scoping

Partners involved, often Healthcare Professionals and Industry Representatives, scope the concepts that will help improve patient care and outcomes.

2. Check Collaborative Working Criteria

Each party reviews the proposed project against the Collaborative Working Criteria to ensure that these will be met.

3. Gain Stakeholder Alignment

Each party involved reviews the project idea to check it aligns with their respective objectives and compliance processes.

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Working Together - A Ten-Step Process

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Potential partner organisations from NHS Wales, the pharmaceutical industry – and potentially other organisation(s) - identify projects and initiatives that will enhance patient care or are for the benefit of patients or alternatively benefits the NHS and, as a minimum, maintains patient care.

- Review the principles of the project against collaborative or joint-working criteria, and
- Ensure that the initial idea has been reviewed by each participating organisations mt-

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The project begins AFTER the collaborative working agreement or joint working agreement has been signed by all parties and the executive summary has been published on (at least) the industry

Legal Considerations Regarding Collaborative and Joint Working

Data Protection:

All parties to a collaborative working arrangement (CWA) or joint working arrangement (JWA) will need to comply with Data Protection legislation including, but not limited to, the Data Protection Act 2018 (in each case as such law(s) may be replaced, supplemented, substituted or amended from time to time).

Under the ABPI Code, neither a pharmaceutical company nor its medical / generic representatives may be given access to data / records that could identify or could be linked to particular patients. This does not preclude individual employees from accessing patient-identifiable information provided they are an appropriately qualified person (e.g. a healthcare professional, statistician) and not employed in a promotional role.

Given that collaborative or joint working will involve NHS patients, it would be preferable to make clear in the CWA / JWA (and / or secondment / NHS honorary contract) that the NHS organisation is the “data controller”, i.e., the person or entity that determines the purpose and the means of any data processing. The data controller is ultimately responsible for ensuring that patient confidentiality and / or privacy are adequately protected.

Anti-Bribery and Corruption:

Care must be taken if an individual physician or NHS employee could benefit personally from any Joint Working arrangements. This is because UK corruption laws (including, but not limited to, the Bribery Act 2010) and comparable legislation in the United States (the Foreign Corrupt Practices Act), prohibit the offering, promising or giving of a financial or other advantage to public officials for the purpose of obtaining any improper business advantage.

Although the NHS as an organisation may benefit from a collaborative or joint working project, this is unlikely to breach Anti-Bribery and Anti-Corruption laws unless one or more public body officials (e.g., an individual NHS healthcare professional or NHS employee) is offered, promised, or given a direct or indirect personal benefit from a particular collaborative or joint working project. This is why it is preferable to agree primary care collaborative or joint working projects at Health Board (a).5 (n)63 (t)

Legal Considerations Regarding Collaborative and Joint Working

Consider whether legal counsel from at least one of the companies should be present at the meetings

Take detailed minutes of all meetings which are then reviewed by legal counsel and retained

Do not disclose or discuss confidential or commercially sensitive information. In particular do not discuss or disclose confidential information or enter into agreements in the following areas:

- The pricing of products or commercial strategies of any of the companies
- Individual ained

The research-based pharmaceutical industry is committed to supporting healthcare and research organisations to drive improvements in patient care and help achieve the best results for patients and the NHS.

One of the ways to do this is by providing donations and grants to support healthcare and / or scientific research or education. A donation or grant must be certified in advance and be prospective in nature. It must also have a written agreement, be documented and those files held on record. Any support must be publicly disclosed as part of an annual declaration, with the company involvement made clear.

A donation or grant can be offered or requested and can also bear the name of the company providing it.

However, a donation or grant must not offset any normal operating response or bear the name of a medicine. It must not be provided with any obligation or expectation that the recipient will provide goods or services to the benefit of the company in return, nor must it constitute an inducement to recommend and / or prescribe, purchase, supply sell or administer specific medicines. It must not be provided to an individual.

Donations may include service provision, physical items, or in-kind support. A company can work with healthcare organisations, patient organisations or others to provide a service. It may also provide goods (i.e., equipment, textbooks, etc.) or in-kind benefits, such as a staff member's time, experience or expertise.

Grants are different to sponsorship inasmuch as there is no expectation on the recipient to provide goods or services to the benefit of the donor company in return.

Appendix 4 - Working with Patient Organisations

The ABPI has produced guidance entitled *Working with Patients and Patient Organisations: A Sourcebook for Industry* to support pharmaceutical companies in working successfully and collaboratively with patients and patient organisations. We want to support relationships that are in the interests of patients and within the law and the ABPI Code. We also hope that the sourcebook will be helpful to patient organisations as they build partnerships with industry.

Many people have asked for a simple declaration that the ABPI, and its Code of Practice, support industry and patient organisations working together. The Introduction to the ABPI Code has always referred to this and in the introduction to the 2021 edition it states that:

“Working with patients and patient organisations can bring significant public health benefits.”

While the ABPI Sourcebook provides informal guidance, following it does not guarantee compliance. Pharmaceutical companies need to ensure they comply with the ABPI Code whenever undertaking projects and work with other organisations.

The Sourcebook has been produced in response to suggestions from the pharmaceutical industry and patient organisations. There is a great deal of useful information.

In 2021, ABPI launched a 'patient organisation gateway'.²⁰ Pharmaceutical companies have been required to disclose information about relationships with patient organisations on their websites since 2006.

The new gateway is a collection of hyperlinks which enable visitors to find and review patient organisation disclosures on individual company websites. This additional resource is part of industry's ongoing commitment to promote transparency and has been built into the existing Disclosure UK database (more information in Appendix 5 – Disclosure UK).

To view the gateway, visit www.disclosureuk.org.uk, click the green button and then search for 'Patient Organisations'. For more information about the gateway, please see the ABPI's factsheet – Patient Organisation gateway FAQs

Appendix 5 - Disclosure UK

The relationship between the pharmaceutical industry and healthcare professionals (HCPs) and healthcare organisations (HCOs) plays a vital role in the development of life-enhancing and life-saving medicines. It is a relationship we are proud of.

At the core of the relationship is sharing knowledge to improve patient outcomes. We want to ensure that patients have confidence that this relationship is open and transparent, and this is why the pharmaceutical industry is taking the lead on disclosing details of transfers of value (ToVs) - payments and benefits in kind - made by industry to HCPs and HCOs through Disclosure UK - the disclosure database. Disclosure UK is part of a Europe-wide initiative to increase transparency between pharmaceutical companies and healthcare professionals and organisations.

Data shown on Disclosure UK covers the key areas of partnership between industry and HCPs / HCOs, including:

- Participation in advisory boards
- Speaking at or chairing meetings
- Working with and advising doctors and scientists in pharmaceutical companies
- Speaking at conferences and symposia
- Attending and contributing to national and international conferences
- Participating in medical education and training funded by pharmaceutical companies
- Provision of grants and donations (only HCOs)
- Sponsorship of events for the provision of medical education to HCPs (only HCOs)

Details of collaborative and joint working projects, as well as grants and donations to healthcare organisations, will be disclosed, alongside research and development transfers of value, which are being disclosed in aggregate.

For more resources and to search the database, please visit www.disclosureuk.org.uk

²⁰ <https://www.abpi.org.uk/our-ethics/disclosure-uk/resources/patient-organisation-gateway-faqs/>

²¹ <https://www.abpi.org.uk/our-ethics/disclosure-uk/resources/patient-organisation-gateway-faqs/>

If you require further copies of this publication or to have it in an alternative format, including the Welsh language, please contact wales@abpi.org.uk
We consider requests on an individual basis.