

Agenda – Public Accounts Committee

Meeting Venue:	For further information contact:
Committee Room 3 – Senedd	Fay Bowen
Meeting date: 25 September 2017	Committee Clerk
Meeting time: 12.00	0300 200 6565
	SeneddPAC@assembly.wales

Private Session

- 1 Scrutiny of Accounts 2016–17: Committee Strategy**
(12.00 – 13.00)
- 2 Audit of Cardiff and Vale University Health Board’s Contractual Relationships with RKC Associates Ltd and its Owner: Auditor General for Wales Briefing**
(13.00 – 13.30)
- 3 The Welsh Government’s funding of Carmarthenshire Energy Limited: Auditor General for Wales Briefing**
(13.30 – 13.40) (Pages 1 – 59)
PAC(5)–23–17 Paper 1A – Autumn work programme

Research Briefing
PAC(5)–23–17 Paper 1 – Auditor General for Wales’ Report
PAC(5)–23–17 Paper 2 – Welsh Government response to the Auditor General for Wales’ Report
- 4 The Welsh Government’s Supporting People Programme: Auditor General for Wales Briefing**
(13.40 – 13.50) (Pages 60 – 154)
Research Briefing



PAC(5)-23-17 Paper 3 – Auditor General for Wales’ Report

PAC(5)-23-17 Paper 3A – Welsh Government response to the Auditor General for Wales’ Report

Public Meeting

5 Introductions, apologies, substitutions and declarations of interest

(14.00)

6 Paper(s) to note

(14.00 – 14.15)

(Pages 155 – 157)

6.1 Welsh Government oversight of further education colleges 'finances and delivery': Additional Information from the Welsh Government (18 July 2017)

(Pages 158 – 159)

6.2 The Welsh Government’s Funding of Kancoat Ltd: Additional information from the Welsh Government (21 July 2017)

(Page 160)

6.3 NHS Wales Health Board’s Governance: Letter from Dr Kate Chamberlain, Healthcare Inspectorate Wales (19 July 2017)

(Pages 161 – 162)

6.4 Implementation of the NHS Finance (Wales) Act 2014: Letter from the Welsh Government (25 July 2017)

(Pages 163 – 165)

6.5 Community Safety in Wales: Letter from the Welsh Government (26 July 2017)

(Page 166)

6.6 Implementation of the NHS Finance (Wales) Act 2014: Welsh Government response to the Auditor General for Wales Report

(Pages 167 – 168)

6.7 NHS Waiting Times for Elective Care in Wales and Orthopaedic Services: Update from the Welsh Government (7 August 2017)

(Pages 169 – 174)

- 6.8 Implementation of the Wales Act 2017: Letter from the Llywydd (18 August 2017) and letter from the Secretary of State for Wales (17 September 2017)**
(Pages 175 – 178)
- 6.9 The 21st Century Schools and Education Programme: Welsh Government's response to the Auditor General for Wales' Report**
(Pages 179 – 187)
- 7 Coastal flood and erosion risk management in Wales:
Consideration of the Welsh Government's response to the
Committee's Report**
(14.15 – 14.25) (Pages 188 – 202)
PAC(5)-23-17 Paper 4 – Welsh Government's response
PAC(5)-23-17 Paper 5 – Letter from the Auditor General for Wales
- 8 Inquiry into Regulatory oversight of Housing Associations:
Consideration of the Welsh Government's response to the
Committee's Report**
(14.25 – 14.35) (Pages 203 – 211)
PAC(5)-23-17 Paper 6 – Welsh Government's response
PAC(5)-23-17 Paper 7 – Letter from Community Housing Cymru
PAC(5)-23-17 Paper 8 – Response from the Regulatory Board for Wales
- 9 The Welsh Government's initial funding of the Circuit of Wales
Project: Oral Update**
(14.35 – 14.45)
- 10 Senior Management Pay: Correspondence from the Welsh
Government**
(14.45 – 14.55) (Pages 212 – 221)
PAC(5)-23-17 Paper 9 – Letter from the Permanent Secretary, Welsh
Government (17 August 2017)

(Break 14.55 – 15.05)

11 Audit of Cardiff and Vale University Health Board’s Contractual Relationships with RKC Associates Ltd and its Owner: Evidence Session

(15.05 – 16.10)

(Pages 222 – 345)

Research Briefing

PAC(5)-23-17 Paper 10 – Auditor General for Wales Report

PAC(5)-23-17 Paper 11 – Paper from Cardiff and Vale University Health Board

PAC(5)-23-17 Paper 12 – Letter from the Welsh Government

Len Richards – Chief Executive, Cardiff and Vale University Health Board

Maria Battle – Cardiff and Vale University Health Board

12 Valedictory session: Owen Evans, Deputy Permanent Secretary, Education and Public Services Group

(16.10 – 16.40)

(Pages 346 – 355)

Research Briefing

Owen Evans, Deputy Permanent Secretary, Education and Public Services Group

13 Motion under Standing Order 17.42 to resolve to exclude the public from the meeting for the following business:

(16.40)

Items 14 & 15

14 Audit of Cardiff and Vale University Health Board’s Contractual Relationships with RKC Associates Ltd and its Owner: Consideration of evidence received

(16.40 – 16.50)

15 Valedictory session: Consideration of evidence received
(16.50 – 17.00)

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Archwilydd Cyffredinol Cymru
Auditor General for Wales

The Welsh Government's funding of Carmarthenshire Energy Limited



WALES AUDIT OFFICE
SWYDDFA ARCHWILIO CYMRU



I have prepared and published this report in accordance with the Government of Wales Act 2006.

The Wales Audit Office study team comprised Ian Hughes and Emma Woodcock under the direction of Mike Usher.

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Mae'r ddogfen hon hefyd ar gael yn Gymraeg.

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Introduction

What this report is about

- 1 On 25 September 2015, the (then) Minister for Natural Resources announced that Carmarthenshire Energy Limited¹ (a not for profit enterprise) would receive financial support of £810,000 from the Welsh Government towards the construction of a 500kW wind turbine at Salem in Carmarthenshire. The turbine is called CELT2. The package of support was funded from the Welsh Government's Renewable Energy Support Programme and comprised a preparatory grant of £25,000 and a repayable construction loan of £785,000.
- 2 The Renewable Energy Support Programme operated between 1 April 2015 and 31 December 2015 as an interim arrangement, following the end of the five-year 'Ynni'r Fro' programme which also supported community renewable energy schemes. The full successor programme to Ynni'r Fro is the Local Energy Service, which commenced on 1 January 2016 (Appendix 2). All of these programmes have been delivered by the Energy Saving Trust², operating under contract for the Welsh Government.
- 3 The core purpose of these programmes is to increase the number of small-scale locally-owned renewable energy installations in Wales, retaining the benefits within Welsh communities. The programmes are intended to be flexible, given the fast changing renewable energy sector environment.
- 4 In recent years, the UK Government has introduced changes to the support offered to renewable energy projects, reducing the levels of funding available, introducing caps on the number of projects that could receive support at each level, and ending 'pre-accreditation'³. As community groups had previously had a pre-accreditation period that was six months longer than commercial developers, its removal has created opportunities for local communities to take over commercial projects. The Welsh Government's support was therefore focused on taking advantage of these opportunities to increase the number of community-owned energy installations across Wales.
- 5 CELT2 was a commercially developed project that was offered for sale at the point of construction to Carmarthenshire Energy Limited. The Carmarthenshire-based developer, Seren Energy, had received offers for the project from commercial operators, but gave Carmarthenshire Energy Limited first refusal if they could fund the build costs and make a comparable offer. To do so, Carmarthenshire Energy Limited required a bridging loan to secure the turbine, which was already on order, for the CELT2 project.

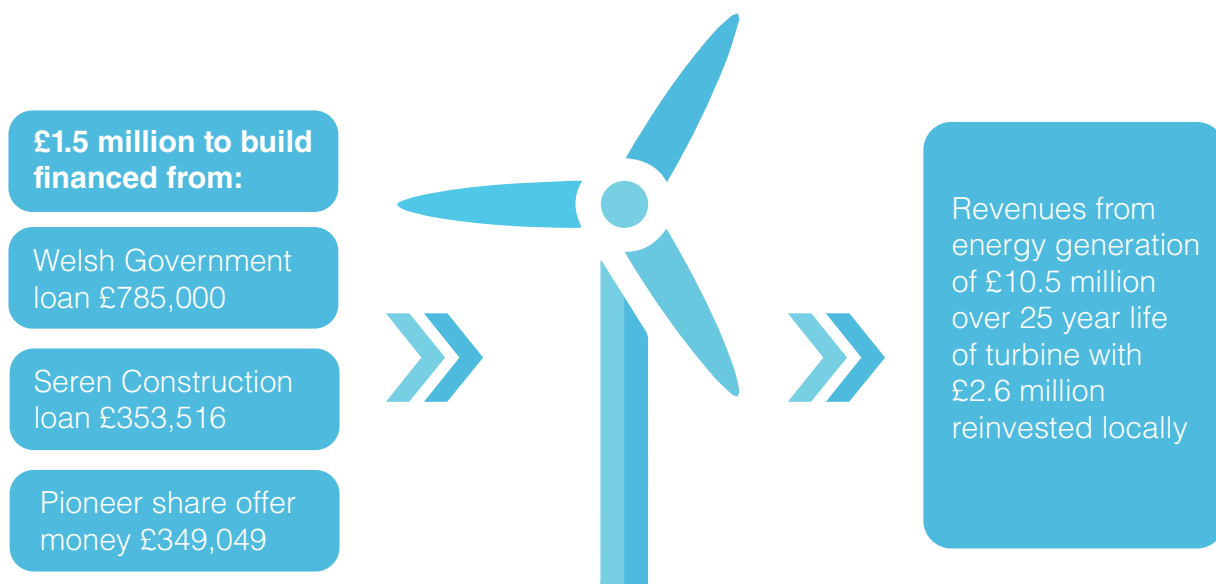
1 Appendix 1 provides further details about Carmarthenshire Energy Ltd

2 A company limited by guarantee, which delivers programmes for governments and provides consultancy to UK businesses and international companies.

3 The ability of projects with planning permission to register for the level of funding available at that point, rather than the level available when the project was up and running.

- 6 The £1.5 million⁴ cost of purchasing CELT2 was met by a mixture of Welsh Government and private finance. Over time, community ownership is expected to increase through share offers which will replace the original sources of finance. **Exhibit 1** shows the original financing of CELT2 and its expected revenue stream.

Exhibit 1: the original financing of CELT2 and its expected revenue stream



Source: Technical Development Officer projections

- 7 Carmarthenshire Energy Limited's funding submission to the Welsh Government projected that CELT2 would generate income of £10.5 million over the 25 year life of the project, through generating electricity. It also estimated that a £2.6 million surplus would be available to support local community renewable energy initiatives.
- 8 In September 2016 the CELT2 wind turbine became operational. The electricity that it generates feeds into the National Grid in exchange for revenues based on a Feed in Tariff⁵. The repayment of the Welsh Government loan is ahead of schedule. Surpluses from the project are now being invested in local schemes such as dry-stone walls, solar panels and battery storage in the nearby village hall, this is shown in **Exhibit 2**.

4 April 2016 Share Offer financial projection

5 The Feed-in Tariffs (FIT) scheme is a UK Government programme to encourage uptake of small-scale renewable low carbon electricity generation technologies. The scheme requires FIT licensees to make fixed-tariff payments for electricity that is generated and exported to the National Grid.

Exhibit 2: Salem Community Hall has benefitted from solar panels, car charging port and lithium ion battery capacity



Source: Carmarthenshire Energy Limited

- 9 The Auditor General has received correspondence from local residents and from the local Assembly Member about the Welsh Government's financial support to Carmarthenshire Energy Limited. These correspondents set out a number of concerns about the use of public money to support the CELT2 project. In particular they:
- a expressed scepticism about the extent to which local residents were likely to benefit from any surplus accruing from the wind turbine revenues;
 - b suggested that a founding member and director of Carmarthenshire Energy Limited stood to benefit because of his interests in the companies responsible for developing, selling and maintaining the CELT2 site. However, the Welsh Government had still approved the funding despite being aware of the potential for personal gain; and
 - c they noted that the Technical Development Officer allocated to Carmarthenshire Energy Limited under the Welsh Government's support programmes was also a founding member and director of Carmarthenshire Energy Limited. The local residents questioned the perceived objectivity and impartiality of this official given his dual roles.

- 10 Our preliminary audit work indicated that conflicts of interest did indeed exist in respect of some members of Carmarthenshire Energy Limited and that there were legitimate concerns about how these appeared to have been handled. In light of these concerns, the Auditor General decided to undertake a value for money examination of the project.
- 11 This report examines how the Welsh Government has managed the risks identified with the project, including whether conflicts of interest had been appropriately managed.
- 12 The Welsh Government has also supported two other Carmarthenshire Energy Limited schemes (CELT1 and Allt Cafan). The funding for these projects has to date comprised preparatory grants of £14,114 and £34,037 respectively. As these two schemes have not yet gone ahead, we have not examined them in detail.
- 13 **Appendix 3** sets out our audit approach and methods.

Key Conclusions

- 14 The CELT2 wind turbine has been operational since September 2016. Carmarthenshire Energy Limited has already started investing some of its surpluses into local renewable energy schemes and intends to do so over the projected 25 year life of the scheme. This has been made possible because of the financial assistance it has received from Welsh Government, as without this support CELT2 would have ended up in private ownership. Carmarthenshire Energy Limited is also paying off the Welsh Government loan ahead of schedule.
- 15 Whilst the turbine has been successfully installed and is operating, we found a number of weaknesses in the governance of the project, in particular the handling of actual and potential conflicts of interest.
- 16 The Welsh Government placed too much reliance on the Energy Saving Trust's own arrangements to manage the conflicts of interest risks identified in the CELT2 funding application. These arrangements were not sufficient to mitigate risk to an acceptable level. The information provided to the Minister for agreement of the funding for CELT2 was incomplete and lacked sufficient balance.

17 Specifically, we found that:

- a Although the Energy Saving Trust correctly identified a number of project risks associated with CELT2 which required mitigation, Welsh Government officials did not seek to validate the effectiveness of the Energy Saving Trust's arrangements to manage these risks. The conflict of interest risks were not mitigated to a satisfactory level before the public funding was released to Carmarthenshire Energy Limited.
- b The formal submission prepared by Welsh Government officials seeking their Minister's agreement to the proposed funding package was incomplete and lacked balance. The advice:
 - did not mention the significant actual and potential conflicts of interest that existed;
 - did not therefore explain how officers had mitigated these and other risks to an acceptable level; and
 - was underpinned by an estimated £2.6 million community surplus that was derived from a forecasting model developed by a Technical Development Officer who had a conflict of interest as a director of Carmarthenshire Energy Limited.
- c We have seen no evidence that the Welsh Government independently evaluated the £2.6 million forecast surplus or sought to highlight a range of potential outcomes to the Minister. Importantly, the cited estimate was roughly double the independently verified figure of £1.3 million benefit that was used by Carmarthenshire Energy Limited itself as part of a public share offer shortly thereafter.

18 Whilst conflicts of interest were not well managed as part of the governance of this project, we did not find that any of the individuals concerned had acted inappropriately with regard to any matters where they had a conflicting interest.

Recommendations

Recommendations	
R1	The Welsh Government should satisfy itself that its delivery partners are equipped to operate effective risk identification and mitigation arrangements.
R2	Welsh Government should encourage the Energy Saving Trust to share good practice in financial governance with recipients of support under the Local Energy Service programme.
R3	The training provided to Technical Development Officers acting on behalf of the Welsh Government should be widened to include financial governance and the identification and management of conflicts of interest.
R4	The Welsh Government should ensure that all Ministerial Submissions contain all material information. For example; where conflicts of interest have been identified, Ministerial Submissions should refer to them and set out how the associated risks are to be mitigated/managed.
R5	Where project outcomes are quantifiable, but uncertain or subject to significant variation, Ministerial Submissions should set out the bases of the forecasts used and, where appropriate, describe the full range of potential outcomes based on a sensitivity analysis.

Part 1

The CELT2 wind turbine is one of three Carmarthenshire Energy Limited schemes supported by the Welsh Government



1.1 Since January 2010 the Welsh Government has, through its Ynni'r Fro scheme and Renewable Energy Support programme, provided Carmarthenshire Energy Limited with both financial and technical support in respect of three separate projects. These are summarised in **Exhibit 3** below:

Exhibit 3: Carmarthenshire Energy Limited's Welsh Government supported projects



CELT1 Wind turbine at Llanarthne
Status: Planning consent not recieved so the scheme did not go ahead
Preparatory grant of £14,114



Allt Cafan hydro-electric scheme at Pentrecwrt
Status: Carmarthenshire Energy Limited have agreed heads of terms¹ for a lease and the scheme is still in devellopment
Preparatory grant of £34,037



CELT2 Wind turbine at Salem
Status: In situ and generating electricity
15 July 2015: Preparatory grant of £25,000
12 August 2015: Loan of £785,000

Note

1 Heads of Terms are a set of agreed principles which precede the signing of a negotiated contract, and which the parties intend to be reflected in the written contract. They set out the basis of the deal in broad terms. It is important to record the contract discussions so that there are minimal surprises when the first draft of the contract is produced.

Source: Energy Saving Trust

- 1.2 The Welsh Government has provided support to community and local energy projects since 2010. The Ynni'r Fro programme provided development grants, construction loans, and support from Technical Development Officers.

The generic role of Technical Development Officer

The role is funded by the Welsh Government. The role is currently described as follows:

'The Development Officers are the on the ground' link with organisations developing projects and will provide advice and support and enable access to funding from Local Energy. However, they will not undertake a wide range of activities to fill gaps in capacity and resource within the community or SME and will not undertake in depth project management or act as a representative or signatory for groups when dealing with bodies such as regulators, solicitors or financial providers.'

Source: Welsh Government

- 1.3 The Ynni'r Fro programme, which was funded by the Welsh Government and European Regional Development Fund, ended in March 2015. An interim programme of support (the Renewable Energy Support Programme) continued whilst a successor programme, the Local Energy Service, was co-developed with the sector by the Welsh Government and was launched in January 2016. As with its predecessor programmes, the Local Energy Service is operated by the Energy Saving Trust under contract for the Welsh Government.

Part 2

The Energy Saving Trust's Independent Panel approved a loan towards the construction of CELT2 subject to a number of conditions



- 2.1 In July 2015, Carmarthenshire Energy Limited applied to the Energy Saving Trust for a total of £810,000 from the Renewable Energy Support programme towards the CELT2 wind turbine. This funding comprised a preparatory grant of £25,000 and a capital loan of £785,000. The grant was to cover the legal fees associated with the turbine acquisition as well as administering and promoting a public share offer. Carmarthenshire Energy Limited urgently required the loan to secure the purchase of the turbine (which would otherwise be sold to a commercial developer) and to continue the development of the site in time to benefit from the higher rate tariff.
- 2.2 The Energy Saving Trust had established an Independent Panel (at the Welsh Government's direction) to be the decision making body on applications for smaller grants and loans under the programme. The Panel comprised legal, accountancy and third sector expertise, together with Welsh Government officials. Technical Development Officers attended Panel meetings to provide expert advice on applications which they have not been involved with. The Panel had delegated authority to approve applications up to a value of £250,000, and also considered larger applications (such as the loan element of the CELT2 project) prior to their submission by Welsh Government officials to their Minister for approval.
- 2.3 The Panel met on 27 July 2015 to consider and assess the CELT2 applications for grant and loan funding support. A briefing paper had been prepared for the Panel by officials from the Energy Saving Trust and the Wales Council for Voluntary Action. That paper set out the governance issues and risks associated with the application and also proposed a number of actions that could be taken to mitigate these identified risks to an acceptable level.
- 2.4 It was clear to the Panel members that the CELT2 project was likely to succeed without Welsh Government funding, as private investors were already interested in buying it. However, the panel paper highlighted that this was a timely opportunity to support a community group in buying the rights to a fully consented site. Securing the scheme's benefits for the local community was therefore a pivotal factor in the Panel's deliberations.
- 2.5 At the 27 July meeting, the Panel recommended both the grant and the loan⁶ for Ministerial approval, subject to seven conditions primarily relating to various checks on the financial aspects of the project. These included legal ownership of the turbine, securing benefits to the community and the satisfactory management of conflicts of interest. These are considered in the next section of this report.

6 The loan was originally for a 12 month period but has since been renegotiated and transferred to Finance Wales. Repayment terms are being met by Carmarthenshire Energy Limited.

Part 3

The Energy Saving Trust did not sufficiently mitigate the identified conflict of interest risks before the Welsh Government released the CELT2 funding



- 3.1 Three of the founding members and Directors of Carmarthenshire Energy Limited (Mr Steve Hack⁷, Mr Ben Ferguson-Walker⁸ and its Chairman, Dr Neil Lewis) had business interests that created actual or potential conflicts with their roles as Directors. **Exhibit 4** summarises each of these interests, and their individual links with the three Carmarthenshire Energy Limited schemes supported by the Welsh Government.
- 3.2 The Panel paper correctly set out six significant risks associated with the CELT2 loan application, each of which required mitigation:
- a **Timing of legal formalities**
The Welsh Government would be exposed if the Heads of Terms document had not been converted into a fully binding document, giving Carmarthenshire Energy Limited full control of the site, before the funds were issued.
 - b **Availability of finance**
 - Commercial finance was being explored with prospective lenders, but firm offers were not yet in place.
 - Possible failure to reach the community share offer target of £500k, in which case the Welsh Government loan repayable at completion would need to be converted to longer-term debt finance.
 - c **Turbine ownership and VAT recovery**
The contract for CELT2 needed to be between the turbine supplier (Enercon Ltd) and Carmarthenshire Energy Limited, to give the Welsh Government a clear line of sight to what it would be funding. This would also eliminate any Value Added Tax restrictions that might ensue.
 - d **Build risk**
Issues in completing the project to proposed timeline could compromise the ability to re-finance, in which case the Welsh Government loan repayable at completion would need to be converted to longer-term debt finance.
 - e **Price paid for the turbine**
Independent checks would be required to make sure that the price being paid for the turbine and the royalties to be paid to the site developer (Mr Hack) reflected a fair market price.
 - f **Potential conflicts of interest**
Steve Hack's involvement with Seren Energy meant that he stood to benefit from the support to Carmarthenshire Energy Limited.

⁷ Mr Hack resigned as a Director of Carmarthenshire Energy Limited in July 2016

⁸ Mr Ferguson-Walker resigned as a Director of Carmarthenshire Energy Limited in January 2016

Exhibit 4: the Directors' business interests regarding the Carmarthenshire Energy Limited schemes supported by the Welsh Government



CELT1

The developer of the scheme is Seren Energy. Mr Hack is a Director of the company.

Mr Ferguson-Walker is a Technical Development Officer employed under the Welsh Government's support programme.



Allt Cafan

Mr Hack owns the land and is developing the scheme through his Seren companies.

Mr Ferguson-Walker is a Technical Development Officer employed under the Welsh Government's support programme.



CELT2

The developer of the scheme is Seren Energy and Seren Renewables is the site operator.

Mr Hack is a Director at both companies.

Mr Ferguson-Walker is a Technical Development Officer employed under the Welsh Government's support programme.

Dr Neil Lewis has a role as Fund Manager for a Community Energy Fund, which provides short-term loans to community renewable energy schemes, and is managed by a not-for profit Community Bank. The Community Bank was a lender which took part in negotiations with Carmarthenshire Energy Limited for a post construction loan.

Source: Carmarthenshire Energy Limited's declarations

- 3.3 Whilst we are satisfied that the first five of these risks were appropriately mitigated, in our view the 'potential conflicts of interest' risk was not sufficiently mitigated. The Panel paper should have referred to a potential conflict of interest in respect of Dr Lewis and to actual conflicts of interest in respect of both Mr Hack and Mr Ferguson-Walker.

Although the risk was clearly identified, neither the Energy Saving Trust nor Carmarthenshire Energy Limited put in place effective mitigation for the conflicting roles held by Mr Steve Hack

- 3.4 The Independent Panel paper noted that Mr Hack stood to benefit personally from any funding provided towards the CELT2 project by the Welsh Government. This reflected his roles as a Director of Seren Energy Limited and also of Seren Renewables Limited, and arose because:
- a Seren Energy had procured the turbine – it intended to sell this on to Carmarthenshire Energy Limited and also provide a bridging loan to finance this transaction;
 - b Carmarthenshire Energy Limited had agreed an annual royalty payment to Seren Renewables, funded from the proceeds of energy sales income; and
 - c Seren Renewables was contracted to operate the site and maintain the turbine.
- 3.5 The Panel paper stated that the Energy Saving Trust had been assured that Mr Hack had not been party to Carmarthenshire Energy Limited's decision making. The paper also identified the following additional actions that could be taken to mitigate the risks arising from Mr Hack's multiple conflicts of interests:
- a to obtain evidence to support the assurance that he had not been party to Carmarthenshire Energy Limited's decision making;
 - b to obtain comfort that he would not take part in any decisions regarding the future distribution of community benefit; and
 - c he could be asked to stand down from his Carmarthenshire Energy Limited role.

In recommending conditional approval of the funding, the Panel required that the loan agreement should include a specific condition that 'the recipient must produce evidence addressing satisfactory treatment of conflicts of interest in this and potential future decision making'. However, the Panel did not require Mr Hack to stand down from his Carmarthenshire Energy Limited role.

- 3.6 Mr Ferguson-Walker told us that he had done what he could (as the Technical Development Officer working with Carmarthenshire Energy Limited) to ensure that Mr Hack would not be involved in key decisions where he had a personal business interest. We were also informed by Dr Lewis, the Chairman of Carmarthenshire Energy Limited, that care was taken to exclude Mr Hack from all key decisions where he had a personal business interest.
- 3.7 We asked the Energy Saving Trust how they had satisfied themselves that conflicts of interest were being effectively managed by Carmarthenshire Energy Limited. They told us that they had reviewed the minutes of meetings of Carmarthenshire Energy Limited to obtain the necessary assurance.
- 3.8 We have reviewed Carmarthenshire Energy Limited's minutes from 10 April 2013 to 15 June 2016⁹ ourselves to establish whether these supported the assurances that were sought by the Panel. However, we found that, contrary to good governance practice:
- a there was no standing item at the beginning of each meeting where directors are required to declare their interest in upcoming agenda item;
 - b the meeting minutes recorded 28 occasions where Mr Hack remained present for discussions despite his conflict of interest in relation to CELT1, Allt Cafan and CELT2; and
 - c on each of those 28 occasions, the minutes were largely silent on the substance of the discussions regarding the three projects.

We identified only six occasions where Mr Hack left the meeting whilst CELT1, Allt Cafan and CELT2 were being discussed.

- 3.9 We have therefore concluded that it would not have been possible for the Energy Saving Trust to have gained sufficient assurance from its own review of the minutes that Carmarthenshire Energy Limited had indeed effectively dealt with Mr Hack's conflict of interest. Importantly, however, we have seen no evidence to suggest that Mr Hack has acted inappropriately with regard to any matters where he had a personal interest.
- 3.10 The Energy Saving Trust provided a copy of its own 'Conflict of Interest Policy' to Carmarthenshire Energy Limited for it to adopt, to assist the company in strengthening its governance in this area. However, this was not done until March 2016, several months after Carmarthenshire Energy Limited had received the loan funding from the Welsh Government on 8 December 2015. Carmarthenshire Energy Limited adopted the policy the following month in April 2016.

⁹ 13 April 2013 – date of first minutes received and 15 June 2016 – last meeting before the opening of CELT2

- 3.11 The policy includes a threshold of £100,000 that had been adopted by the Energy Saving Trust for disclosure of personal interests in meetings. This was also adopted without amendment by Carmarthenshire Energy Limited. In our view, £100,000 is far too high a disclosure threshold for any not for profit organisation to adopt. It meant in practice that disclosures were not reflected in the minutes by any directors (including the Technical Development Officer) in respect of work provided by their own companies or those run by relatives, as these invariably sat below the £100,000 threshold.
- 3.12 In July 2016, Mr Hack stood down for personal reasons as a Director of Carmarthenshire Energy Limited. This was shortly after submitting a declaration of interest under Carmarthenshire Energy Limited's recently adopted Conflict of Interest policy.
- 3.13 Mr Hack has informed us that without the offer of the site and the short-term loan from Seren Energy, the CELT2 project was unlikely to have been built by Carmarthenshire Energy Limited. With regards to conflicts of interest, he considered that these were inevitable, as there is a very small pool of experienced people within South West Wales who are both willing and able to volunteer.

Neither the Energy Saving Trust nor Carmarthenshire Energy Limited put in place effective mitigation for the dual roles held by Mr Ferguson-Walker

- 3.14 The Panel paper noted, but did not present as a risk requiring mitigation, the fact that Mr Ferguson-Walker held the following dual roles:
- a a working director with responsibilities for the management, governance and operations of Carmarthenshire Energy Limited; and
 - b as the Technical Development Officer allocated to Carmarthenshire Energy Limited. Mr Ferguson-Walker was the 'on the ground' link with the Energy Saving Trust and the Welsh Government. He provided advice and support, to enable Carmarthenshire Energy Limited to apply for funding from the Welsh Government's renewable energy schemes.
- 3.15 We have reviewed the minutes of meetings of the board of Carmarthenshire Energy Limited, and we also met with Mr Ferguson-Walker to discuss his work with the CELT2 project and more generally as a Technical Development Officer. Mr Ferguson-Walker told us that there was a significant lack of capacity in Carmarthenshire Energy Limited, which resulted in him undertaking a wide range of activities concurrently as a Director and as a Technical Development Officer.

- 3.16 Whilst Mr Ferguson-Walker did not act as a signatory for Carmarthenshire Energy Limited, we note that his email address was shown as an additional point of contact on the capital loan application to the Welsh Government, reflecting his founding member status. His cash flow model for CELT2 was submitted alongside the CELT2 funding application. These actions are illustrative of his conflicting roles as a Technical Development Officer and as a Director of Carmarthenshire Energy Limited.
- 3.17 We identified during our fieldwork that Mr Ferguson-Walker is also one of three current Directors of a company called E. W. Energy Ltd. That company does not appear to be currently trading. The other two directorships of this company are held by Mr Steve Hack and Seren Energy Ltd. Mr Ferguson-Walker's role as a director of E. W. Energy Ltd was not reflected in any of the mitigating actions identified by the Energy Saving Trust. Mr Ferguson-Walker explained to us that this Directorship arose as part of his voluntary duties as a Director of Community Energy in Pembrokeshire Ltd and does not generate any personal benefit. However, we consider that the pre-existing relationship between Mr Ferguson-Walker (as Technical Development Officer for Carmarthenshire Energy Ltd) and Mr Hack (as the developer of CELT2) should have been identified and taken into consideration by the Energy Saving Trust as part of its overall risk assessment in the funding application for CELT2.
- 3.18 We note the comment in the Panel paper that 'care was required to avoid any possible conflict of interest on behalf of its Technical Development Officer'. However, given the extent of Mr Ferguson-Walker's activities, it is difficult to see how the Energy Saving Trust could have mitigated this risk effectively whilst he continued to discharge both roles. In our view, elimination of the risk was therefore necessary. This could have been achieved if Mr Ferguson-Walker had resigned as a Director of Carmarthenshire Energy Limited and E. W. Energy Ltd or, alternatively, if he had ceased to act as Carmarthenshire Energy Limited's Technical Development Officer and another Technical Development Officer had been assigned to the project.
- 3.19 Mr Ferguson-Walker resigned as a Director of Carmarthenshire Energy Limited in January 2016 accepting that it was difficult, if not impossible, to maintain both roles. His resignation was welcomed at the time by his employer, the Energy Saving Trust. We note that the Trust has since adopted a policy that prohibits its Technical Development Officers from serving in this capacity at organisations where they have either a governance or management role. Importantly, however, we have seen no evidence to suggest that Mr Ferguson-Walker has acted inappropriately with regard to any matters where he had a personal interest.

- 3.20 Both Welsh Government officials and the Energy Saving Trust have informed us that, in their view, Mr Ferguson-Walker was not acting as the Technical Development Officer for the CELT2 project itself. They told us that this was because the project had already progressed past the development stage when it was approved by both the Energy Saving Trust and the Minister. They contend that this was why the Independent Panel had not explicitly identified this as a risk that required mitigation.
- 3.21 In our view this assertion does not reflect the wider context of the ongoing conflicting roles held by Mr Ferguson-Walker as the Technical Development Officer allocated to Carmarthenshire Energy Limited. As shown in [Exhibit 4](#), CELT2 is one of three Carmarthenshire Energy Limited projects which have benefitted from financial support from Welsh Government.
- 3.22 Importantly, Carmarthenshire Energy Limited's Board informed us that its understanding was that Mr Ferguson-Walker was acting as Technical Development Officer for all of its projects, including CELT2. This position is also consistent with the various contemporary documentation that we have reviewed, which neither mentions nor suggests that Mr Ferguson-Walker was not the Technical Development Officer for the CELT2 project. The Energy Saving Trust's project monitoring report shows Mr Ferguson-Walker as the relevant Technical Development Officer for all three projects receiving Welsh Government support, including CELT2.

The Energy Saving Trust did not scrutinise the surplus that was expected to be generated for community benefit schemes

- 3.23 The Energy Saving Trust approved Carmarthenshire Energy Limited's loan on the condition that it developed a 'community benefit strategy'. This strategy would set out how surpluses generated from project revenues would be allocated to a community benefit fund. There is no reference in the Panel paper itself to the size of the estimated community benefit surplus, but this information was included in the supplementary papers given to the Panel:

'Our forecasts show that a substantial surplus will still be yielded, which we will allocate to meet our constitutional aims including the provision of grants and zero interest loans to local householders and businesses for energy efficiency and micro-renewables. The lifetime surplus of the project is forecast at £2.6 million.'

3.24 The estimated surplus of £2.6 million was derived from a financial model developed by Mr Ferguson-Walker, which incorporated standard factors on wind speed and turbine performance. Mr Ferguson-Walker had checked both the planned turbine output and the proposed construction costs with the technical team at a peer organisation in Scotland. However, he told us that his model had been built ‘more for early development indicators than for detailed financial due diligence processes’. We found that this estimated surplus was also quoted without any caveats in the submission paper for the Minister and was referenced (as ‘up to £2.5 million’) in the [Welsh Government’s own press release](#) dated 25 September 2015 (see text box).

Natural Resources Minister Carl Sargeant has agreed additional funding of £938,000 to three community led and locally supported wind energy projects in south Wales.

Friday 25 September 2015

As part of continued funding support for local energy projects, Carmarthenshire Energy Limited, a small Welsh based community developer, will receive a loan of £785,000 and a £25,000 grant towards the building of a 500kw wind generator in rural Carmarthenshire. Operating the turbine will generate community owned income of up to £2.5 million over the project lifetime, which they plan to use to fund energy efficiency and further renewable energy generation.

Source – [Welsh Government press notice, 25 September 2015](#)

3.25 We have seen no evidence that the Panel actually scrutinised the estimated surplus or that the Energy Saving Trust had obtained any independent checks. We are particularly concerned about this because the surplus figure was derived from a model that had not been developed for due diligence purposes by an individual who had an unmitigated conflict of interest. The figure was double the £1.3 million forecast that Carmarthenshire Energy Limited itself used in its second Share Offer published in April 2016, see extract below:



Community Economic Impact

The project will generate a range of economic impacts, including the following key benefits:

1. Establishing a scheme supporting local householders, businesses and community organisations with grants
2. Supporting the development of Carmarthenshire based renewable energy projects generating further income for the area
3. Payments to Seren Renewables and local landowner, sustaining both a local business and farm
4. Interest paid to Members

The Society has made financial forecasts on a number of different yield and export value scenarios, with the most conservative scenario indicating that it will be able to establish a community fund with an income in excess of

£1,300,000 (one million three hundred thousand) over 25 years.

The Society has adopted a detailed Community Benefits Policy, and has also had further research provided by The Energy Saving Trust on the wider economic benefits and job creation associated with funding energy efficiency and micro-renewable installations. Please see our website for more details.

Legal Agreements

The Society has taken up a 28 year Lease on the site which includes provision for occupying the land, grid connection access, and access for ongoing operation and maintenance.

Source – [Carmarthenshire Energy Limited Share Offer](#)

3.26 Mr Ferguson-Walker told us that the Shareenergy¹⁰ model used to calculate the £1.3 million surplus ‘was certainly a lot more stringent, and less flexible in terms of the way surpluses were calculated’.

¹⁰ Shareenergy helps grow the community energy sector in the UK. It uses existing resources where possible, and to work to build up local capabilities. It tries not to do work which somebody else can do better.

The potential conflict of interest risk associated with Dr Lewis's employment as a Community Energy Fund manager was not recognised by the Independent Panel

3.27 Our review of the Carmarthenshire Energy Limited meeting minutes has shown that Dr Lewis was present for funding discussions although this may have created a potential conflict with his employment as a Community Energy Fund Manager for a bank. No declarations of interest are shown in the minutes themselves. Dr Lewis' employment with the bank was not identified as a potential conflict of interest risk in the Panel paper. We take the view that this potential risk should have been reflected in the briefing paper prepared for the Independent Panel, together with the identification and consideration of appropriate mitigation measures.

Part 4

As the scheme owner, the Welsh Government placed too much reliance on the Energy Saving Trust's own arrangements to manage the risks identified



- 4.1 As the £785,000 loan element of the CELT2 project was significantly in excess of the £250,000 delegated approval authority held by the Energy Saving Trust and the project required rapid approval, we asked the Welsh Government what steps its own officials had taken to satisfy themselves that the Trust had indeed taken action to mitigate the identified risks prior to the release of funds. Welsh Government officials told us that these mitigating actions had been monitored through their daily interactions with the scheme manager. However, Welsh Government officials were unable to provide us with any documentary evidence to demonstrate this. We have also been unable to establish from the available documents whether the Energy Saving Trust itself had provided any assurances to the Welsh Government that its proposed mitigations had been implemented.
- 4.2 The next section of this report looks at the independent scrutiny of the estimated community benefit and the quality of the subsequent written advice provided to the Minister. We assess in particular whether that advice clearly set out the risks and benefits of the CELT2 application.

Part 5

The information submitted to the Minister for agreement of the funding for CELT2 was incomplete and lacked sufficient balance



- 5.1 The Independent Panel assessed and approved Carmarthenshire Energy Limited's grant application on 27 July 2015. It also endorsed the loan funding application for subsequent approval by the Minister via a submission paper to be prepared by Welsh Government officials.
- 5.2 On 12 August 2015, Welsh Government officials submitted a Ministerial Advice¹¹ asking the Minister to endorse the Panel's recommendation 'to provide funding to a community renewable energy project outside the initial scope of the programme'. The Ministerial Advice paper included the following information:
- a the figure of £785,000 was well in excess of the £250,000 limit for schemes. However it would enable a community group to become the owners of the project;
 - b Carmarthenshire Energy Limited had a benefits policy that set out how funds will be used;
 - c if Carmarthenshire Energy Limited failed to reach agreement, the loan would be repaid to the Welsh Government. If Carmarthenshire Energy bought the project but failed to reach the £500,000 share offer, which was at the high end of such share offers but not unrealistically so, they would need to secure a larger commercial loan; and
 - d the Independent Panel had scrutinised the proposal closely, and had approved the loan subject to a number of conditions. Officials therefore recommended Ministerial endorsement of the panel's recommendation.
- 5.3 We consider that the submission paper to the Minister contained appropriate information regarding the financial risks associated with the provision of funding to Carmarthenshire Energy Limited. However, we are concerned that the submission paper failed to make any reference to the wider governance risks posed by the project.
- 5.4 Officials did not inform their Minister about any of the identified actual and potential conflicts of interest, or explain how these had been managed to mitigate risk to an acceptable level. In fact, the advice instead stated that the application 'did not give rise to any issues of regularity or propriety or contain anything which is novel or contentious'.
- 5.5 It is clear from the ministerial submission that the generation of a 'likely' £2.6 million surplus for the benefit of the community was important to the decision made. However, the submission did not explain that this figure had arisen from a model which had not been developed for the purposes of due diligence, or contain any caveats regarding its reliability.

11 Ministerial Advice (MA) – a formal written submission to the Minister seeking approval for the commitment of public funds

- 5.6 Under the circumstances we consider that the briefing provided to the Minister by his officials was incomplete and lacked sufficient balance. The briefing should have:
- a set out the risks in relation to conflicts of interest together with assurance that they had been mitigated to an acceptable level; and
 - b presented a range of potential outcomes for the estimated surplus (via use of a sensitivity analysis), rather than simply quoting the figure of £2.6 million provided within the application.
- 5.7 The Auditor General has previously commented on the drafting and contents of Ministerial submissions in his reports; for example the recent review of the Circuit of Wales noted that ‘some key information was omitted from submission papers’.
- 5.8 It is not possible for us to establish whether or not the inclusion of a range of figures for the estimated surplus would have affected the Minister’s decision to agree to the provision of public funds to the CELT 2 project. However, these weaknesses do potentially expose the Welsh Government to some reputational risk, as it is unable to demonstrate that it took appropriate actions to satisfy itself that its delivery partner had mitigated the risks associated with the funding application.
- 5.9 Welsh Government officials told us that, in their view, the Ministerial advice set out the proposal and the principal risks as perceived by both the Independent Panel and themselves. These risks were:
- a the displacement of commercial finance;
 - b the loss of public funds in the event of project failure; and
 - c any failure to ensure that the benefits from the scheme were secured to the local community

They considered that these risks were planned for and managed effectively.

- 5.10 As regards the conflicts of interest, Welsh Government officials consider that these were adequately managed by the mitigation measures, and are being addressed by the Local Energy Service’s ongoing work in supporting community groups across Wales to develop their governance capacity.
- 5.11 The Welsh Government therefore considers that its intervention, and the transfer of CELT2 into community ownership, has resulted in benefits being retained in the local community which otherwise would have gone to a commercial owner. The loan finance is being returned to the public purse to invest in further community energy development.

Appendix 1 – Carmarthenshire Energy Limited



In 2004 individuals with an interest in community-led renewable energy generation established the Carmarthenshire Energy Action Group. Its aims were to develop sustainable energy projects to combat climate change and boost economic development in the county.

When the Welsh Government launched the Ynni'r Fro Programme, Carmarthenshire Energy Action recognised that a more sustainable mechanism was needed to deliver Carmarthenshire's community renewable energy aspirations. Therefore the group began consulting with communities, businesses, councillors and officers, this last for a year. After the consultation process, the group decided to form the Carmarthenshire Energy Trust, as an Unincorporated Association.

Carmarthenshire Energy Trust evolved over time and in December 2012, registered as an independent Industrial & Provident Society (IPS) for Community benefit; known as Carmarthenshire Energy Ltd.

The objects of Carmarthenshire Energy Ltd are to:

"carry on any business for the benefit of the community by the promotion of energy conservation and renewable (low carbon) energy production in the community of Carmarthenshire."

Source: [Carmarthenshire Energy Limited website](#)

Appendix 2 – The Welsh Government’s support for community based renewable energy schemes through its delivery partner, the Energy Savings Trust

In January 2010 the Welsh Government approved a five-year programme, Ynni'r Fro, to encourage the development of community renewable energy in Wales. The Welsh Government appointed the Energy Saving Trust under contract to provide support for these schemes. The appointment was via a range of financial and non-financial measures including:

- technical advice and support to small and medium-scale renewable energy projects across the full range of electricity and heat technologies;
- advice and support on other issues facing community groups:
 - in developing and managing these projects
 - accessing the community right to buy in to larger renewable energy developments
 - governance, engagement, confidence in managing and investing funds; and
 - working with developers.
- grant funding for preparatory technical costs;
- supporting innovative approaches and technologies; and
- finance and grants to allow projects to move to construction.

When Ynni'r Fro concluded in March 2015, having spent £4.5 million. The Welsh Government put in place interim arrangements; the Renewable Energy Support Programme. Its aim was to continue to support small and medium scale renewable energy schemes. It would maintain the flow of development and help ensure that any successor to the Ynni'r Fro scheme would deliver outputs from early in the new programme. This interim arrangement ended on 31 December 2015. The full successor programme to Ynni'r Fro is the Local Energy Scheme, which commenced on 1 January 2016.

The Welsh Government considered the Carmarthenshire Energy Limited project (CELT2) during the summer of 2015 under the interim arrangements.

Appendix 3 – Our audit approach and methods

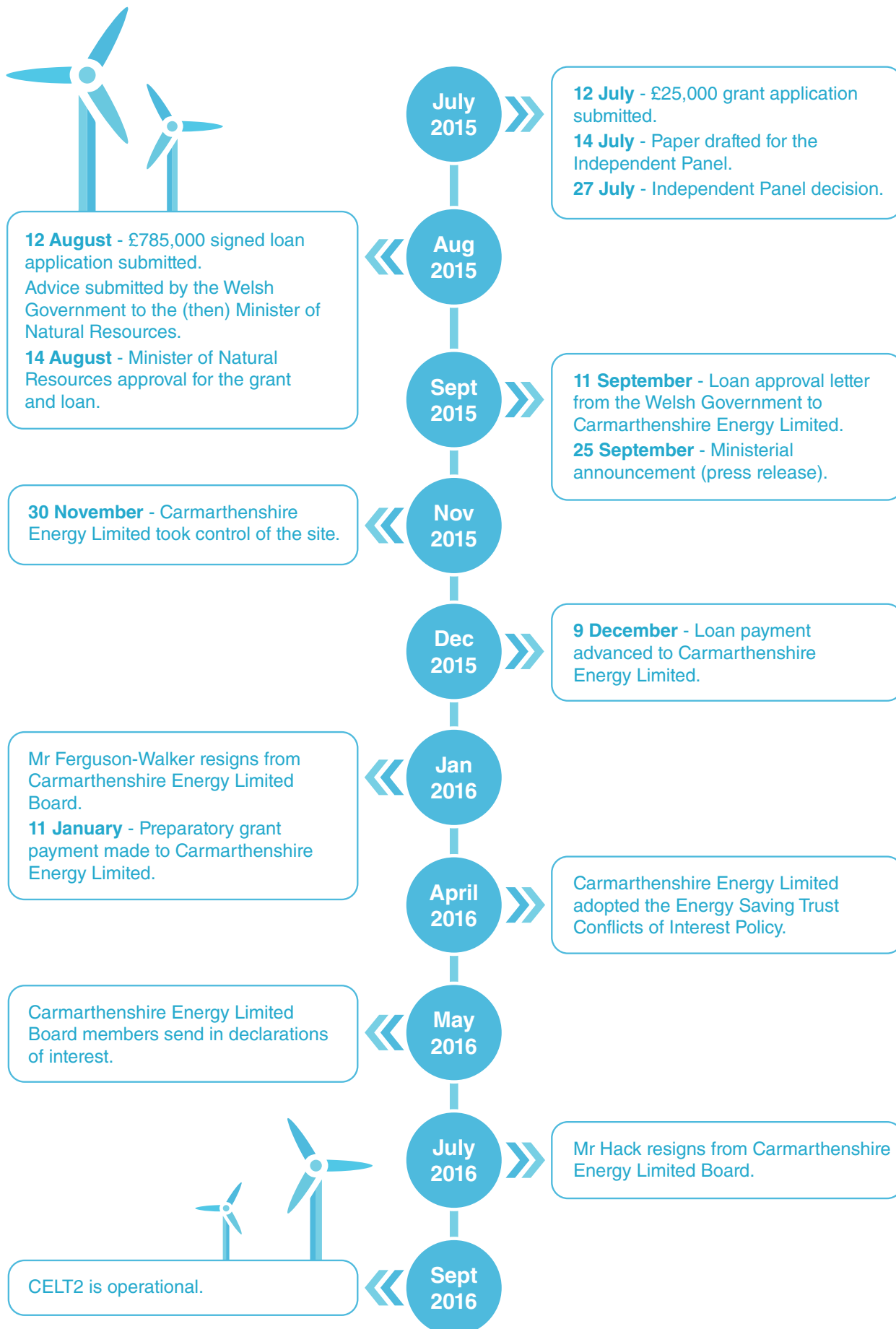
Scope

- a We conducted an audit review of the financial support that Carmarthenshire Energy Limited received from the Welsh Government.
- b Our audit set out to establish the underlying facts in respect of concerns that had been raised in correspondence with the Auditor General. Therefore, we have only reviewed the preparatory grant and loan application for CELT2.

Methods

- a In undertaking the review we gathered and reviewed documentary evidence from the Welsh Government, the Energy Saving Trust, Carmarthenshire Energy Limited and from public sources such as Companies House.
- b We have met Welsh Government officials and also have met key individuals involved in the CELT 2 project to put questions to them. We also met with and reviewed certain information provided to us by members of the public, and visited the site of the CELT 2 wind turbine at Salem, Carmarthenshire.
- c We have provided the opportunity to the Welsh Government and to named third parties for them to provide comments on our report prior to publication, in relation to factual accuracy, completeness and balance.
- d Our published report sets out the underlying facts, the Auditor General's conclusions and his specific recommendations to the Welsh Government, for consideration by the Public Accounts Committee of the National Assembly.

Appendix 4 – Timeline



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Economy, Skills and Natural Resources Group

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Llywodraeth Cymru
Welsh Government

Mr Huw Vaughan Thomas
Auditor General for Wales
Wales Audit Office
24 Cathedral Road
Cardiff
CF11 9LJ

7 August 2017

Dear Huw,

**Response to the Report of the Wales Audit Office on the Welsh Government's
Funding of Carmarthenshire Energy Limited**

The Welsh Government strongly supports the development of community energy schemes and is proud to have been involved in helping this and other communities to start taking control of their energy. These projects can play a large part in delivering our energy vision whilst ensuring local people benefit.

We welcome the findings of the report and I am pleased to offer the following response to the five recommendations contained within it at Annex A. I hope that this is helpful.

Yours sincerely

James Price



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Annex A

Recommendation 1

The Welsh Government should satisfy itself that its delivery partners are equipped to operate effective risk identification and mitigation arrangements.

Accepted.

Welsh Government fully accepts that the implementation of appropriate due diligence on prospective delivery partners is crucial in understanding their risk identification and mitigation arrangements. Where existing delivery partners are in place the need to fully understand risk identification and mitigation arrangements that are being implemented will be emphasised as part of the monitoring process. The importance of the due diligence process and the implementation of proportionate monitoring will be communicated to officials across Welsh Government. Where necessary, additional training will be provided.

Timescale and Lead

Dean Medcraft, Director, ESNR Finance & Operations
31st October 2017

Recommendation 2

Welsh Government should encourage the Energy Saving Trust to share good practice in financial governance with recipients of support under the Local Energy Service programme.

Accepted.

Welsh Government will encourage the Energy Saving Trust to share good practice in financial governance with recipients of support under the Local Energy Service programme.

Officials are already in the process of reviewing the WAO report with the Energy Saving Trust and WCVA. This will include consideration of guidance provided to applicants through the current toolkit and by staff. Governance guidance currently available in the Local Energy Service toolkit is found at:

<http://localenergy.gov.wales/workspace/uploads/files/local-energy-toolkit-established-568e766f5a7c1.pdf>

A specific section will be added to the guidance on governance issues and links will be provided to any new sources of good practice in financial governance.

Timescale and Lead

Prys Davies, Head of Decarbonisation and Energy
31st October 2017

Recommendation 3

The training provided to Technical Development Officers acting on behalf of the Welsh Government should be widened to include financial governance and the identification and management of conflicts of interest.

Accepted.

Training provided to Technical Development Officers acting on behalf of the Welsh Government will include financial governance and the identification and management of conflicts of interest.

We hold regular meetings with Local Energy service managers and Development Officers. These meetings cover a variety of topics including the financial and governance requirements of the programme as well as wider continuing professional development. All Development Officers have been made aware of the WAO report and its recommendations to reinforce the importance of financial governance and management of conflicts of interest.

Suitable additional training will be provided to all Development Officers and programme staff by the end of October 2017.

Timescale and Lead

Prys Davies, Head of Decarbonisation and Energy
31st October 2017

Recommendation 4 and 5

The Welsh Government should ensure that all Ministerial Submissions contain all material information. For example; where conflicts of interest have been identified, Ministerial Submissions should refer to them and set out how the associated risks are to be mitigated/managed.

Where project outcomes are quantifiable, but uncertain or subject to significant variation, Ministerial Submissions should set out the bases of the forecasts used and, where appropriate, describe the full range of potential outcomes based on a sensitivity analysis.

Accepted

The submission referenced in this report is dated 12th August 2015 and therefore predates the Ministerial Advice system currently in place. The submission process was changed in the autumn of 2015, and each Ministerial Advice now includes an explicit statement of assurance by the lead Deputy Director or Head of Division. The statement of assurance asks the Deputy Director or Head of Division to confirm that they are satisfied that the recommended decision or action, if agreed, would be lawful and affordable.

The declaration includes a checklist, which sets out a number of issues that the Deputy Director would need to consider before endorsing the MA. This includes financial implications, matters of regularity or propriety or anything that may appear to be novel or contentious. The Deputy Director or Head of Division is also asked to confirm that the advice is based on a robust analysis of evidence.

Furthermore, the guidance that supports the MA process includes links to comprehensive material on how to deal with financial and governance implications (where risk management including the identification and handling of conflicts of interest, whether real or perceived, are referenced). There is also an Evidence Guide for policy makers, which sets out the need to base advice and decisions on a rigorous analysis of the evidence and provide the necessary information to help make well targeted and cost effective decisions. Where appropriate, such information will include the results of sensitivity analysis.”

A Corporate update to Deputy Directors within the ESNR Group will be issued to remind them of the need to follow this guidance in providing accurate and balanced advice. An all staff notice will also be issued to remind staff of the need to follow the Ministerial Advice guidance in the form of an internal news story at the start of the autumn term.

Timescale and Lead

Dean Medcraft, Director, ESNR Finance & Operations
31st October 2017

Agenda Item 4

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

Archwilydd Cyffredinol Cymru
Auditor General for Wales

The Welsh Government's Supporting People Programme



WALES AUDIT OFFICE
SWYDDFA ARCHWILIO CYMRU



I have prepared and published this report in accordance
with the Government of Wales Act 2006.

The Wales Audit Office study team comprised Emma Giles, Seth Newman
and Andy Phillips under the direction of Matthew Mortlock.

Huw Vaughan Thomas
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Mae'r ddogfen hon hefyd ar gael yn Gymraeg.

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Summary

- 1 The Welsh Government's Supporting People Programme (the Programme) provides grant funding to local authorities to deliver directly, or through third-party providers, housing-related support services. These services are intended to help vulnerable people to live as independently as possible. Launched in 2003, the Programme replaced several housing-related funding streams.
- 2 The Programme supports both individuals and families of varying ages. Annually, the Welsh Government estimates that the Programme supports around 67,000 people.¹ The Welsh Government has identified 18 specific² groups of people eligible for support. Eligible groups range from people with learning or physical disabilities and developmental disorders to victims of domestic abuse, people with chronic illnesses, mental health or substance misuse issues, criminal offending histories and people with refugee status. The support provided varies according to the individual's needs. For example, some receive accommodation-based support, such as a place in a hostel. While others receive help with housing-related problems from a support worker who visits them in their own homes.³
- 3 For 2016-17, the Welsh Government invested £124.5 million into the Programme. Of this sum, around £800,000 was 'top-sliced' to fund research and development, Regional Development Co-ordinator roles and some Welsh Government posts. Collectively, just under half of the total funding supported three specific groups (learning disabilities: mental health, and young people with support needs). The single largest area of spending supported was for people with learning disabilities, receiving £30.6 million or 25% of the Programme funds (Figure 1). However, several other categories involved a larger number of units of support. For example, there were around 25,000 units of support in the alarm services (including in sheltered/extra care) category, which accounted for only 2% of the Programme spend.
- 4 Between 2013-14 and 2016-17, the total annual funding reduced by 8.5% (£11.6 million) in cash terms or 10.5% (£14.6 million) in real terms. However, overall local authority allocations have remained the same in cash terms since 2015-16.

- 1 Estimate based on figures provided by local authorities on the number of people supported by the Programme, whereas Figure 1 counts the number of 'units' of support provided by the Programme. Each unit of fixed support could potentially help more than one person or family during the course of a year. Equally, a worker providing floating support could potentially deliver support to more than the planned number of individuals.
- 2 In addition to these 18 specific groups of people, there is a generic 'floating support' category and a category to record expenditure which does not directly link to the 19 spend plan categories. Generic floating support services are typically provided to a wide range of client groups with lower levels of need and the support is not provided by a specialist service. There are more intensive floating support services provided by staff with a particular area of expertise. The Welsh Government expects individuals to be counted only once in a single category, even if they have multiple needs.
- 3 Accommodation-based support is referred to as 'fixed' and support received in an individual's home is referred to as 'floating' support.

Figure 1: distribution of Supporting People Programme expenditure in 2016-17
– local authority allocations

Areas of greatest expenditure	Overall unit number ¹	Total spent per category (£ millions)	Cost per unit (£s)	Overall percentage of funding
People with learning disabilities	2,847	30.57	10,739	25
Generic floating support to prevent homelessness	4,933	15.94	3,232	13
People with mental health issues	2,327	13.78	5,922	11
Young people with support needs (16-24)	1,523	13.16	8,641	11
People over 55 years of age with support needs (exclusive of alarm services)	15,666	11.65	743	9
Women experiencing domestic abuse	1,201	9.04	7,530	7
Other categories (total) ²	29,146	29.46	1,011	24
Other categories (range)	31-25,030	0.13-6.43	91-8,609	<0.5-5
Total	57,643	123.69	2,060	100

Notes

1 One 'unit' of support potentially supports more than one person or family.

2 A full list of support categories is available in Figure A3 in Appendix 5.

Source: Wales Audit Office analysis of data supplied by the Welsh Government

- 5 Since 2009, there have been a number of changes in Ministerial responsibility for the Programme and the Welsh Government has commissioned a number of reviews of the design and delivery of the Programme ([Appendix 2](#)). The most significant of these – widely referred to as the ‘Aylward Review’ – led the Welsh Government to introduce in August 2012 a new set of arrangements to manage delivery of the Programme.⁴
- 6 One of the key developments following the Aylward Review was the introduction of a single unified grant, the Supporting People Programme Grant. Previously, local authorities administered the Supporting People Grant to fund primarily longer-term support services. These services generally focused on older people, people with learning disabilities and people with mental health issues. Separately, the Welsh Government administered the Supporting People Revenue Grant. This grant funded shorter-term support, such as for hostels and refuges for vulnerable people.⁵
- 7 The Welsh Government also established a new governance structure ([Figure 2](#)). The new structure included six Regional Collaborative Committees and a Supporting People National Advisory Board. Local Supporting People teams have continued to manage delivery of the Programme in each local authority. This structure reflected the Welsh Government’s aspiration to develop and manage the Programme through ‘co-production’ – the involvement of people and communities in the design of public services. Welsh Government officials responsible for the Programme point to it having led the way in developing and delivering policy in a collaborative and inclusive manner. Co-production reflects principles now embedded in the Well-being of Future Generations (Wales) Act 2015 and the Social Services and Well-being (Wales) Act 2014.
- 8 On behalf of the Auditor General, Wales Audit Office staff have examined whether the Welsh Government has put in place effective arrangements to manage the Supporting People Programme and ensure it is delivering high-quality and appropriately-targeted services. We have considered whether the Welsh Government has a clear understanding of what it wants the Programme to achieve and how it has managed the development of the Programme in response to legislative and policy changes. We have also examined the effectiveness of the actions taken by the Welsh Government since 2012 to address issues in the funding and management of the Programme. Some of these issues are longstanding. Finally, we have considered certain issues relating to local and regional delivery of the Programme. [Appendix 1](#) describes our audit methods.

4 Sir Mansel Aylward et al, **The Supporting People Programme in Wales: Final report on a Review commissioned by Jocelyn Davies AM, Deputy Minister for Housing and Regeneration**, Welsh Assembly Government, November 2010

5 People fleeing domestic violence; people with learning disabilities; people with mental health problems; people suffering from alcohol or drug dependency; refugees; people with physical disabilities; people who are homeless or at risk of homelessness; young people leaving care; ex-offenders; people with chronic illness and vulnerable single parents.

Figure 2: the current Supporting People Programme governance structure

<p>Supporting People National Advisory Board</p>	<p>Includes three independent members, the Welsh Government and representation from different parts of local government, the NHS, the social housing sector, Wales Probation Trust and providers of homelessness, housing-related support and social care services.</p> <p>The Board's overall purpose is to ensure the Programme focuses on meeting the housing-related needs of vulnerable people and to provide independent advice to Welsh Ministers on progress and barriers.</p>
<p>Regional Collaborative Committees</p>	<p>Five of the six committees align to the geographical boundaries of a single health board. The exception is the Mid and West Wales Committee. That Committee covers the Powys Teaching Health Board and Hywel Dda University Health Board areas.</p> <p>Each committee includes representatives from local authorities, NHS Wales, probation, Supporting People service providers and registered social landlords. They also include service users.</p> <p>The overall aim of the committees is to provide the strategic direction, at the regional level, for the Programme. They are responsible to the Welsh Ministers for regional and local collaborative delivery of the Programme to ensure the most effective and efficient services are delivered.</p> <p>A Regional Development Co-ordinator supports each committee. The Welsh Government funds these roles and the co-ordinating lead local authority in each region employs the co-ordinators.</p> <p>The committees are responsible for producing a three-year Regional Strategic Plan⁶. The plan sets out the region's strategic priorities and outlines regional needs, gaps in service provision and plans for developing services. It also contains the region's annual spend plan which brings together the spending plans of the individual local authorities.</p>
<p>Local authority Supporting People teams</p>	<p>Receive an annual Supporting People Programme grant allocation and directly contract with support providers.</p> <p>They are responsible for ensuring that grant conditions are met by collecting monitoring information, including national service user outcomes, and reviewing service quality and strategic relevance through evidence collection and site visits.</p> <p>Each local authority Supporting People team is required to produce a Local Commissioning Plan which identifies its local priorities, needs and gaps in provision and local plans for developing services.</p>

6 Regional Strategic Plans replaced Regional Commissioning Plans in January 2017. The fundamental difference is the strategic plans look at the overall strategic direction of the service rather than units of support being commissioned

- 9 **The Welsh Government has made a significant investment in the Supporting People Programme since its inception in 2003, both through direct funding for the Programme and the time and resources spent reviewing Programme delivery arrangements. However, we have concluded that, despite some strengthening of arrangements, action taken to address some longstanding concerns about the Programme’s design and delivery has not always been effective. Progress in some key areas has been slow, including in establishing a comprehensive and reliable understanding of the Programme’s impact. There are also inconsistencies in the way the Programme is being managed at a local and regional level, due in part to inadequate Welsh Government guidance.**
- 10 The Programme’s stated purpose and aims have not kept pace with changing policy. For example, the stated purpose and aims do not recognise explicitly the emphasis that the Welsh Government has placed on the Programme’s role in helping to prevent homelessness and tackle poverty. Since 2012, notable policy changes that affect the Programme have included Welsh Government legislation on social services, future generations and housing, and UK Government policy on welfare reform. But we have identified concerns about the scale of change and the way it has been communicated.
- 11 The Welsh Government is currently consulting on revised Programme guidance, including a new series of strategic objectives. The Welsh Government is also currently in the process of reviewing the implications of the UK Government’s ‘Supported Accommodation Review’ and its impact on the Supporting People Programme in Wales.
- 12 The Welsh Government has accepted most of the recommendations of the Programme reviews undertaken since 2009. Although some actions, including revisions to Programme guidance, have taken longer than anticipated. In some key areas, the action taken has not always been effective and progress has been slow. The Welsh Government’s view is that managing the Programme in line with the principles of co-production accounts for some of the pace of progress but can deliver better outcomes.
- 13 There remain concerns about the effectiveness and impact of the Regional Collaborative Committees, with mixed progress in developing regional projects and services. In addition, seven years after the Aylward Review identified the need for change, older people’s services are still predominantly not based on an assessment of need. Rather, services still tend to reflect historic provision based around tenure. There is evidence that the substantial bulk of older people’s services are still commissioned in such a way that they remain available only to tenants of local authorities and registered social landlords.

- 14 Progress in developing an approach to evaluation remains slow, and so the Welsh Government does not yet have a good enough understanding of the Programme's impact. In August 2012, the Welsh Government introduced a new framework to assess individuals' progress against a defined set of Programme outcomes. However, the Outcomes Framework has a number of limitations, which makes it difficult to form a comprehensive judgment of the success of the Programme. There is also a lack of confidence in the data that has been collected.
- 15 The Welsh Government is planning to revise the Outcomes Framework in an effort to address some of the current concerns. However, as currently drafted, the revised arrangements may not fully address the concerns about the current framework and outcomes data. Separate to work on developing the Outcomes Framework, there is some as yet limited evidence that the Programme reduces demand for health services. Further data collection in this regard is underway following an initial feasibility study.
- 16 Funding has continued to be ring fenced, in contrast to the situation in England and Scotland. Nevertheless, there are some concerns about the impact of budget reductions on the quality and sustainability of Supporting People services.
- 17 The redistribution of funds towards geographical areas of greatest need has not progressed as rapidly as anticipated. The Welsh Government introduced a new funding formula for 2012-13 and 2013-14 but chose then to suspend it when also making cuts to the Programme budget. Had the formula continued to have been implemented some local authorities would have received significantly more in 2016-17, and some significantly less, than their actual allocations. The Welsh Government has been considering implementing a revised funding formula in response to a recommendation from the Supporting People National Advisory Board. But the timeframe for doing so has not been confirmed and any new formula will now need to take account of the revised Programme objectives and be consulted upon.
- 18 The quality and consistency of regional planning – through a process of needs analysis – varies. However, in recent years the Welsh Government has provided local authorities with annual budget allocations for the financial year ahead, without providing any indicative budgets for future years. Local authority Supporting People lead officers told us that such short funding horizons hamper their ability to plan longer-term services and discourage joint working. The short timescale between the Welsh Government confirming allocations for the year ahead and the deadline for submitting spend plans has also made it difficult for Regional Collaborative Committees to contribute to the plans and provide effective scrutiny. However, the Welsh Government's own reviews have highlighted examples where local authorities have issued a substantial number of three-year contracts.

7 The Welsh Government did continue with some degree of non-formula-based redistribution in 2014-15 and 2015-16.

- 19 The Welsh Government's guidance on the procurement of Supporting People services is potentially misleading. It risks creating expectations among providers about the use of contract extensions that cannot necessarily be met by local authorities if they are also to comply with wider procurement regulations. There is evidence of variable procurement practice, with some local authorities making more use of contract extensions than others, rather than going out to tender.
- 20 The Welsh Government has capped management charges at 10%, having previously identified major variation in the nature and scale of expenditure termed as management charges. While the Welsh Government has also identified that there are widespread variations in overall service costs, further analysis is required to understand the reasons for that variation. For example, taking account of more detailed data to consider the extent to which differences in the duration of services account for this variation.
- 21 Since April 2014, the Welsh Government has undertaken a series of local authority reviews that, in some cases, have highlighted concerns about the management of the Programme. These reviews, along with some more detailed work by two Regional Collaborative Committees (North Wales and Gwent), have highlighted some issues with the eligibility of support for people with learning disabilities and differences in the level of support provided.

Recommendations

- 22 Our work has highlighted a range of ongoing challenges for the design and delivery of the Programme. The Welsh Government is still working to implement the recommendations from previous reviews in many of these areas, including through updated Programme guidance. The Welsh Government is also taking action to address other emerging issues, for example by revising its current approach to measuring Programme outcomes, although we have noted that the emerging proposals may not fully address the limitations in the current outcomes framework.

Recommendations

- 1 In recent years, the Welsh Government has provided local authorities with annual budget allocations for the financial year ahead, without providing any indicative budgets for future years. Reflecting the recommendations that we have made in some of our previous reports, and while recognising the uncertainties facing the Welsh Government's own revenues, **we recommend that:**
 - **the Welsh Government re-introduce indicative three-year Supporting People funding allocations at the earliest opportunity to assist local authorities in their planning; and**
 - **at the same time, consider the merits of moving to three-year annual rolling local authority spend plans, to assist local authorities in planning services and to allow greater scrutiny by Regional Collaborative Committees.**

- 2 The Welsh Government is proposing greater regional planning and delivery of services as part of its reforming local government policy. However, the Supporting People Regional Collaborative Committees have struggled to deliver at the scale and pace the Welsh Government would have liked. **We recommend that the Welsh Government:**
 - **identify and apply lessons learned from the experience of the Regional Collaborative Committees to inform its proposals for local government reform; and**
 - **review whether the Regional Collaborative Committee arrangements remain fit for purpose in the context of other collaborative governance arrangements, such as the new statutory public service boards and its wider plans for regional working in local government.**

Recommendations

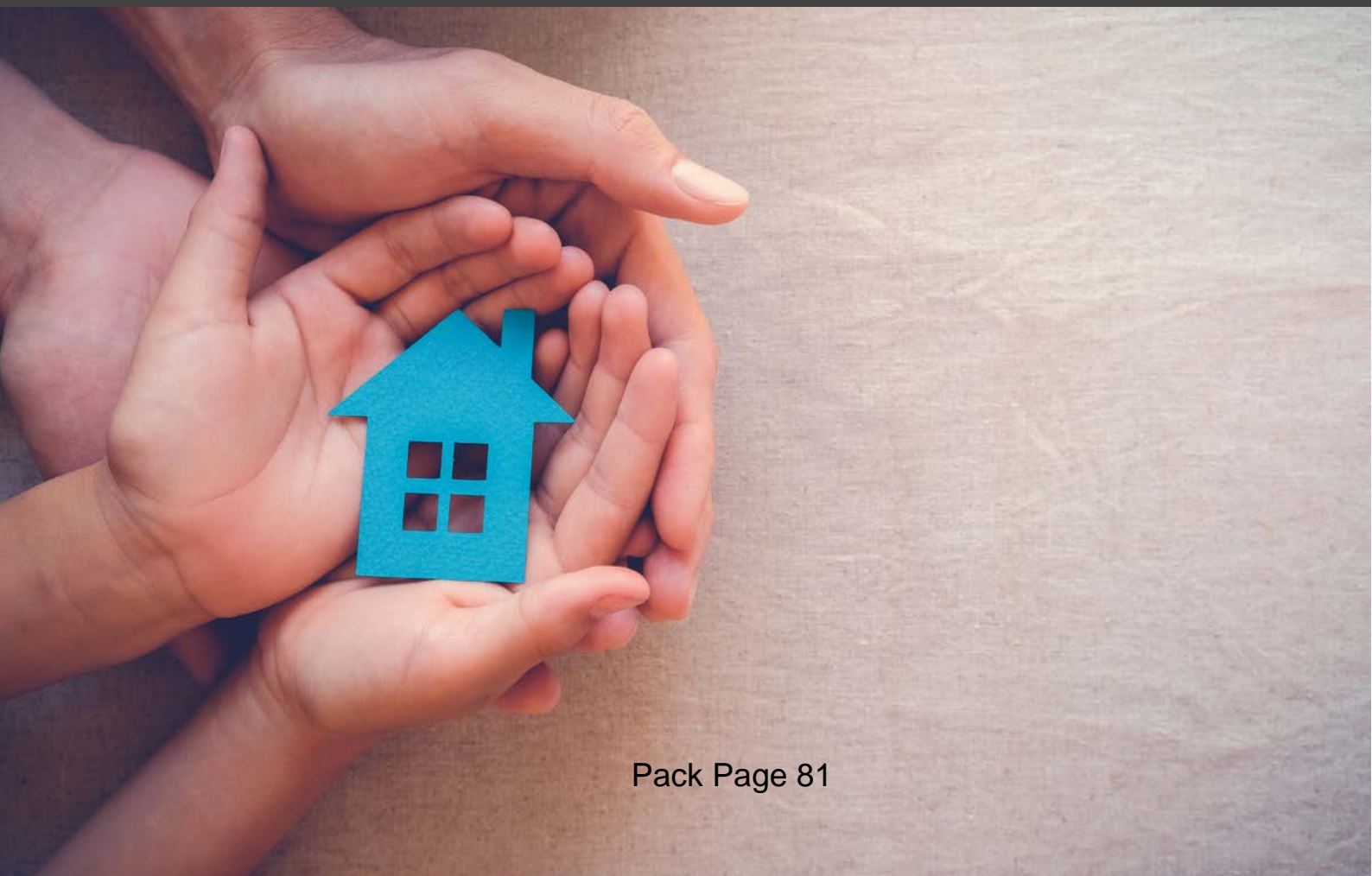
- 3 The Supporting People National Advisory Board has recognised the need for a new formula to help redistribute Programme funds to geographical areas of greatest need. The Welsh Government is also consulting on the strategic objectives for the Programme. **We recommend that, once it has finalised the new strategic objectives for the Programme, the Welsh Government prioritise developing a new funding formula to redistribute funding in a way that most effectively delivers those objectives. In doing so, we recommend the Welsh Government give consideration to any transitional arrangements and wider policy developments that may impact on the Programme.**
- 4 The Welsh Government's current and draft revised guidance on the procurement of Supporting People services is potentially misleading as it implies that retendering need only take place where a service review has found the service to be deficient. **We recommend that:**
 - **the Welsh Government's ongoing reviews of local authorities' management of the Programme should examine whether contracts are being extended in accordance with Public Contract Regulations; and**
 - **in revising its Programme guidance, the Welsh Government redraft its advice on contract procurement to avoid the scope for any misinterpretation about when to retender for services, and to clearly articulate the rules around contract extensions.**
- 5 There have been a number of notable policy changes in recent years that affect the Programme. However, we have identified concerns about the scale of change and the way it has been communicated. In addition, other developments will have an impact on the Programme, for example, the Welsh Government's plans for local government reform and UK government reform of housing benefit. **We recommend that the Welsh Government should identify and clearly communicate the implications of such reforms for the Programme.**
- 6 While the Welsh Government has identified that there are widespread variations in overall service costs, further analysis is required to understand the reasons for that variation. **We recommend that the Welsh Government work with local authorities to examine in more detail whether there are significant variations in the costs of delivering Supporting People services of a similar type and duration.**

Recommendations

- 7 There remain concerns about data quality in the current Outcomes Framework, but with revised data collection arrangements being proposed. **We recommend that the Welsh Government work with its partners to ensure that, once introduced, any new arrangements are clearly understood by providers and embedded as part of contractual arrangements.**
- 8 Welsh Government reviews, and more detailed work at a regional level by two of the Regional Collaborative Committees, have highlighted some issues with the eligibility of support for people with learning disabilities and differences in the level of support provided. **We recommend that the Welsh Government encourage all Regional Collaborative Committees to review arrangements for support for people with learning disabilities through the Programme and work with the committees to manage any potential negative consequences for service provision.**

Part 1

The Programme's stated purpose and aims have not kept pace with changing policy, although the Welsh Government is now developing new strategic objectives



- 1.1 This part of the report considers whether the Welsh Government has clearly articulated the Programme's aims and priorities. It also considers how the Welsh Government has managed the development of the Programme in response to changing policy and legislation.

The Welsh Government considers that the Programme provides vital support to prevent homelessness and tackle poverty, although these issues are not mentioned explicitly in its stated purpose or aims

- 1.2 The Welsh Government's 2013 Programme Guidance says that the purpose for the Programme is to provide 'housing-related support to help vulnerable people to live as independently as possible'.⁸ To accompany its overall statement of purpose, the Welsh Government has set out on the Supporting People website six aims:
- a helping vulnerable people live as independently as possible;
 - b providing people with the help they need to live in their own homes, hostels, sheltered housing⁹ or other specialist housing;
 - c preventing problems in the first place or providing help as early as possible in order to reduce demand on other services such as health and social services;
 - d providing help to complement the personal or medical care that some people may need;
 - e ensuring quality services, which are delivered as efficiently and effectively as possible through joint working between organisations that plan and fund services and those that provide services; and
 - f promoting equality and reducing inequalities.
- 1.3 None of the above aims explicitly reference homelessness prevention. Elsewhere though, the Welsh Government states clearly that the Programme has a key role in preventing homelessness. For example, the **Ten Year Homelessness Plan for Wales** (2009-19) states 'The Supporting People Programme has a vital role to play with the prevention of initial and repeat homelessness, by providing services that can help vulnerable households or individuals to address their accommodation and support needs'. In addition, the Welsh Government's annual report on Grants Management for 2016 noted 'The Programme provides vital

⁸ Welsh Government, **Supporting People Programme Grant Guidance-Wales**, June 2013

⁹ Sheltered housing in this context means accommodation for people over the age of – in some cases – 50, where there is a resident warden service, a communications system and some communal facilities.

support to people who find themselves in very difficult circumstances particularly people who are homeless or at risk of becoming homeless. As well as preventing homelessness the Programme provides housing related support to a variety of groups including people with learning disabilities, mental health needs and women fleeing domestic abuse.¹⁰

- 1.4 Nor do the above aims explicitly reference tackling poverty. Yet, the Welsh Government intends the Programme to be instrumental in helping it to address poverty. For example, the Welsh Government's action plan for tackling poverty identifies that Supporting People has a role to play in meeting tackling poverty targets, but does not quantify the expected contribution.¹¹

The Welsh Government has recognised that wider policy developments have implications for the Programme, but we have identified concerns about the scale of change and the way it has been communicated

- 1.5 Since 2012, notable policy changes that affect the Programme have included Welsh Government legislation on social services, future generations and housing, and UK Government welfare policy reforms (Box 1). In addition, the UK Government's recent review of supported accommodation¹² and proposals that have arisen from it will have implications for the future of the Programme. From April 2019, all tenants living in supported accommodation will see their housing benefit capped at a lower rate. The impact of capping the housing benefit level, used to cover the rental and service charge element of supported accommodation schemes, is that it will create a shortfall in funding.
- 1.6 The UK government has committed to ensuring that the devolved administrations will receive a level of funding to cover this shortfall. Without the guarantee of funding for the rents and service charge element, a number of supported accommodation schemes have indicated they are likely to become unviable. The Welsh Government is currently with stakeholders in the process of reviewing the implications of the Supporting Accommodation Review and its impact on the Supporting People Programme in Wales.

10 Welsh Government, **Annual Report on Grants Management 2016**, March 2017

11 Welsh Government, **Building Resilient Communities, Taking forward the Tackling Poverty Action Plan Annual Report 2014**, July 2014

12 Department for Work and Pensions and Department for Communities and Local Government, **Supported accommodation review – The scale, scope and cost of the supported housing sector**, November 2016

Box 1: Key legislation and policy reforms relevant to the Programme

Social Services and Well-being (Wales) Act (2014)

Aims to improve the wellbeing of people who need care and support, and carers who need support. The Act requires local authorities and local health boards to jointly undertake a population assessment of care and support needs for adults, children and carers. This presents opportunities to combine this work with activity to produce the needs analysis for the Supporting People Programme.

Well-being of Future Generations (Wales) Act (2015)

Aims to improve the social, economic, environmental and cultural wellbeing of Wales, both now and for future generations, by placing the sustainable development principle at the heart of all decision making. One key element of the sustainable development principle is a focus on prevention, which aligns closely with one of the central aims of the Supporting People Programme (paragraph 1.2c).

Housing (Wales) Act (2014)

Aims to improve the supply, quality and standards of housing in Wales. Includes a new strengthened duty on local authorities to prevent homelessness. There is a stated Welsh Government expectation that the Supporting People Programme will be used to prevent homelessness (paragraph 1.3). The Welsh Government has recently published an interim evaluation of the implementation of the part of the Act that deals with homelessness prevention.¹³ Previously, the then Minister for Communities and Tackling Poverty commissioned a feasibility study to identify the best way to evaluate the impact of the Programme on homelessness.¹⁴

Violence Against Women, Domestic Abuse and Sexual Violence (Wales) Act (2015)

Aims to improve the response within the public sector in Wales to all forms of violence against women, domestic abuse and sexual violence. Places a responsibility on public bodies to improve arrangements to promote awareness of, and prevent, protect and support victims of gender-based violence, domestic abuse and sexual violence.

UK Government welfare policy reforms

The Welfare Reform Act 2012 introduced a wide series of reforms to the UK benefits system. Evidence drawn together by the Public Policy Institute for Wales has suggested that welfare reforms will hit the most deprived communities and most vulnerable groups hardest, leading to increased debt and poverty.¹⁵ This situation is likely to create increased demand for Supporting People services among people needing help to manage their finances. More recently, the UK Government's Supported Accommodation Review (paragraph 1.5), and the proposals that have arisen from it, have the potential to have a significant impact on the Supporting People Programme in Wales in the future.

¹³ Welsh Government, **Post-implementation of the homelessness legislation (Part 2 of the Housing Act (Wales) 2014) Interim Report**, August 2017

¹⁴ Public Policy Institute for Wales, **Evaluating the Contribution the Supporting People Programme makes to Preventing and Tackling Homelessness – Feasibility Study**, June 2015

¹⁵ Public Policy Institute for Wales, **The Impact of Welfare Reform on Housing Policy in Wales: A Rapid Evidence Review**, August 2017

- 1.7 The Welsh Government has not reviewed formally the Programme aims in response to the changing policy agenda. However, over the past few years the Welsh Government has set local authorities a broadening and increasingly complex agenda. Since issuing Programme guidance in 2013, the Welsh Government has used a number of other approaches to set out what it expects from the Programme in light of wider policy developments. Specifically, it has made changes to grant terms and conditions and issued various letters covering different issues at different times, which require local authorities to develop Supporting People services that:
- a place greater emphasis on preventing homelessness and early intervention;
 - b tackle poverty by giving people opportunities to find employment and or training and to gain skills, and through better alignment with the Welsh Government's other Tackling Poverty programmes, namely Communities First, Flying Start and Families First;
 - c help to reduce the use of Bed and Breakfast accommodation for 16 and 17 year olds, and better support those young people leaving local authority care who are deemed to be at risk of homelessness;
 - d provide preventative low and medium level support 'for people experiencing domestic abuse, which needn't be strictly housing related support'; and
 - e address the consequences of UK Government welfare reform.
- 1.8 Between April 2014 and December 2015, the Welsh Government carried out a series of reviews of how well local authorities have delivered the Programme. **Paragraphs 3.29 to 3.33** and **Box 8** on page 61 provide more detail on the scope and findings. These reviews raised some issues that are difficult for local authorities to resolve. For example, about the eligibility for funding of some of the learning disability services. It is the Welsh Government's view that some local authorities are using Supporting People funding to support ineligible services to people with learning disabilities. At a time of austerity, local authorities may find it difficult to find other funding sources to continue to provide the support deemed ineligible.
- 1.9 There have also been a number of reviews commissioned by the Welsh Government about the Programme, which the Welsh Government has encouraged local authorities to take into account when developing services (**Appendix 2**). The Welsh Government's regular Supporting People bulletin gives further information to stakeholders about developments relevant to the Programme. For example, the September 2016 bulletin stated that the National Advisory Board wants the Programme to develop ways to address adverse childhood experiences, such as domestic abuse and substance abuse.

- 1.10 Although funding levels have remained stable in cash terms since 2015-16, these expectations come at a time when there remains concern about pressure on Programme budgets and with some Supporting People teams having limited staff resources. Some Supporting People lead officers told us about the challenges they experience managing the Programme, when it is for them one of a number of competing responsibilities. The Welsh Government's own reviews have raised concerns about the level of staffing in some local authorities. The reviews found that in some cases low staffing is affecting local authorities' ability to robustly monitor and evaluate services (paragraph 3.32).
- 1.11 Supporting People lead officers, and to a lesser extent Regional Development Co-ordinators and Regional Collaborative Vice-Chairs and Chairs, expressed a range of concerns to us about managing the Programme in a complex and rapidly changing policy environment. The most commonly expressed concern was that by broadening the agenda to cover issues such as signposting to employment and training opportunities and providing non housing-related support to domestic abuse victims, the Welsh Government is diluting the Programme objectives and creating confusion about Programme priorities. However, some saw the Welsh Government as seeking to narrow the overall purpose of the Programme 'through the back door'. Specifically, some perceived that the Welsh Government is seeking to revise the Programme so that it no longer delivers services to promote independent living, but is solely focussed on homelessness prevention. In our view, these contrasting perspectives are symptomatic of a lack of clarity about the overall purpose of the Programme. In response, the Welsh Government highlighted to us that the revised Programme guidance restates the importance of the Programme in helping people to live independently (Box 2).
- 1.12 Other concerns expressed included:
- a in asking local authorities to respond to a number of emerging priorities over a relatively short period, some saw the Welsh Government as failing to take adequate account of the complexity of changing services to reflect new priorities.
 - b some interviewees felt that there was a tension between local and regional needs assessment and planning of services and top-down setting of expectations by the Welsh Government.
 - c overall, officials within the Welsh Government's Supporting People team were viewed positively. However, Supporting People lead officers frequently expressed frustration with the level of guidance provided by Welsh Government officials about how to translate emerging priorities into change on the ground.

The Welsh Government is currently consulting on a series of strategic objectives for the Programme, as part of wider changes to Programme guidance

- 1.13 In May 2017, the Welsh Government issued for consultation revised Programme guidance. The Welsh Government intends that the new guidance will focus more on the 'strategic direction' of the Programme. To this end, the draft guidance includes a series of strategic objectives (Box 2). Originally scheduled for consultation in December 2015, resourcing constraints for the Welsh Government and its partners have created delays. The Welsh Government prepared the guidance by working in collaboration with partner organisations involved in delivering the Programme.
- 1.14 In developing the draft strategic objectives, the Welsh Government considered the need to articulate more explicitly the role of the Programme in delivering the **Ten Year Homelessness Plan for Wales**. The Welsh Government has also considered the impacts of the changing policy landscape on the Programme (Box 1).

Box 2: The Welsh Government's draft strategic objectives for the Programme

Issued for consultation in May 2017, the draft strategic objectives are that the Programme should deliver demonstrable and evidence-based impact on people's lives, by:

- Preventing homelessness wherever possible
- Supporting people to develop skills for life to flourish independently, in their own homes and part of their communities
- Supporting people to build their wellbeing and resilience to deal with shocks, stresses and uncertainty in their lives
- Reducing demands on other services
- Supporting people out of poverty
- Making best use of resources for maximum impact
- Delivering better relationships by working in partnership, across organisational, policy and sectoral boundaries
- Avoiding or mitigating the effect of adverse childhood experiences

Source: Welsh Government, **Supporting People Programme Guidance and Outcome Framework Consultation**, May 2017

Part 2

Action taken to address some longstanding concerns about the Programme's design and delivery has not always been effective and progress in some key areas has been slow



- 2.1 This part of the report examines the Welsh Government's response to the recommendations of Programme reviews commissioned since 2009. It considers whether action taken by the Welsh Government and its partners has delivered the intended benefits. The Welsh Government's view is that managing the Programme in line with the principles of co-production accounts for some of the pace of progress but can deliver better outcomes.

The Welsh Government has accepted most of the recommendations of the Programme reviews undertaken since 2009, although some actions, including revisions to Programme guidance, have taken longer than anticipated

- 2.2 Since 2009, the Welsh Government has commissioned five reviews of the Programme ([Appendix 2](#)):

- a The 'Aylward Review' (2010)
- b **Design for Governance** (2013)
- c **Independent review of the Supporting People Programme Transition Year** (2014)
- d **Supporting People Programme management charges within Supporting People service provision** (2015)
- e **Supporting People: Older People's Services** (2016)

- 2.3 The Welsh Government accepted in full 22 of the Aylward Review's 25 recommendations, rejected one recommendation outright¹⁶, and partially accepted elements of two others. In August 2012, the Welsh Government launched a new Supporting People Programme and in June 2013 it produced new Programme guidance. The new Programme included:

- a a single unified grant to replace the previous two Supporting People grants;
- b a new set of governance arrangements with six multi-sectoral Regional Collaborative Committees¹⁷ responsible for short, medium and long-term planning and a Supporting People National Advisory Board to provide the Minister with advice and information;

¹⁶ The Aylward Review proposed that the 'Supporting People Programme should be brought into the housing association regulatory framework'. The Welsh Government rejected this recommendation on the basis that the Programme is 'outside the scope of the regulatory function for registered social landlords'.

¹⁷ The Aylward Review had recommended that, as an interim measure, the Welsh Government set up 22 local authority based collaborative committees. However, the Welsh Government decided to move immediately to regional committees, and introduced six Regional Collaborative Committees. This decision put the Programme in the frontline of an emerging policy focus on regional working.

- c a funding formula to redistribute Programme funds to geographical areas of greatest need;
 - d inspections of providers by local authorities at three-yearly intervals; and
 - e an 'Outcomes Framework' to help to identify Programme impacts.
- 2.4 The Welsh Government's approach to implementing the recommendations of the Aylward Review was well-structured. It also showed the Welsh Government's willingness to work collaboratively to deliver improvements. The decisions the Welsh Government took in response to these recommendations also demonstrated its commitment to making progress in some difficult areas. For example, in respect of the funding formula and regional working.
- 2.5 The Aylward Review also called upon the Welsh Government to establish a national accreditation process for all providers, with fast track entry for providers already accredited. The Welsh Government developed a draft accreditation framework, and the 2013 Programme guidance referred to accreditation. However, the Supporting People National Advisory Board decided that the accreditation framework was not necessary. The Board's rationale was that local authorities monitor the contracts for providers, with some providers also subject to other external review arrangements. The Board proposed instead that the Welsh Government consider developing a repository of information about the governance, financial stability and organisational structure of providers seeking Supporting People funding. To date, the Welsh Government has not had the staff resource to take forward work on the repository.
- 2.6 In response to the **Design for Governance** review, from April 2016 the Welsh Government has required the main Regional Collaborative Committee member organisations to sign a Memorandum of Understanding 'to help to ensure effective and efficient strategic development, delivery, operation, administration and management of the Programme's services on a regional basis'. However, the Memorandum of Understanding took over two years to finalise. In addition, we asked our interviewees about whether the Memorandum of Understanding was likely make regional working more effective, and none felt that it would have an impact.

- 2.7 The Welsh Government accepted all but one of the 18 recommendations of the 2014 **Independent Review of the Supporting People Programme Transition Year**.¹⁸ Ten of the recommendations addressed issues related to the Regional Collaborative Committees (**Box 3**). The Welsh Government developed an action plan in response to the recommendations of the review. Some actions are complete and there has been some progress against all of the accepted recommendations. However, there has also been some slippage. The Welsh Government is taking forward some of the recommendations through its revised Programme guidance. For example, the need to clarify and better communicate the Programme's strategic vision and for a new set of 'strategic objectives' (**Box 2**). As noted in **paragraph 1.13**, the guidance has taken longer than anticipated to produce.

Box 3: The Welsh Government's response to the 2014 Independent Review recommendations about the Regional Collaborative Committees

Broadly, the review recommendations related to:

- the membership of the Committees, and the roles and responsibilities of members and the Regional Development Co-ordinators who work to support the Committees;
- the Welsh Government's approach to communicating its expectations of the Committees and supporting, measuring and overseeing delivery by the Committees of its expectations; and
- the way in which the Committees engage with other regional structures operating in other policy areas, such as health and social care.

In March 2015, the Welsh Government confirmed its commitment to continuing with the structure of six regional Committees and a National Advisory Board. Also, the Welsh Government committed to updating the Programme guidance to reflect the review recommendations relevant to the Regional Collaborative Committees.

¹⁸ The Welsh Government did not accept the recommendation that the Programme Guidance stipulation to appoint a service user to the Regional Collaborative Committee should be removed and left to local discretion.

- 2.8 In response to the 2015 review **Supporting People Programme Management Charges within Supporting People service Provision**, the Welsh Government introduced a 10% 'comply or explain' cap on management charges. The 2016-17 audit certificate requires local authorities' internal auditors to certify that management charges for Supporting People services are 10% or less or that they have received a written explanation for charges above that level. Other actions taken in response to the 2015 review were:
- a the Welsh Government ran events with service providers and landlords to discuss the report and its approach to implementing the recommendations.
 - b the Welsh Government is currently undertaking its second round of reviews of aspects of local authority delivery of the Programme (**Box 8** on page 61). These reviews include an examination of the approach to management charges.
 - c the revised Programme guidance issued for consultation in May 2017 clarifies the level of spending that can be shown as management charges.
- 2.9 The 2016 review **Supporting People: Older People's Services** made nine recommendations, seven of which were directed at Regional Collaborative Committees, local authorities and service providers. Nevertheless, the review identified that the Welsh Government could be more consistent in its monitoring of Regional Collaborative Committees' progress in delivering services for older people that are based on their needs and do not reflect the type of tenure they hold.¹⁹ The review suggested that the Welsh Government require the Regional Collaborative Committees to report annually on their progress towards achieving 'tenure neutral' services for older people, which it now does although the data remains incomplete (**paragraph 2.20**).
- 2.10 The 2016 report also called upon the Welsh Government to review its approach to evaluating impacts so that it more effectively captures the experiences of older people supported through the Programme. The Welsh Government is currently consulting on how to revise its approach to evaluating the Programme (**paragraph 2.35**). The consultation document includes questions on how to assess the impacts of the Programme on people receiving longer-term services. The consultation notes that those receiving long-term services are particularly likely to be older people and people with a learning disability.

¹⁹ The 2010 Aylward Review had recommended that 'the eligibility criteria for older people receiving Supporting People funds should be based on need rather than age or tenure'.

There remain concerns about the effectiveness and impact of the Regional Collaborative Committees, with mixed progress in developing regional projects and services

- 2.11 The main concerns and challenges about the effectiveness of the Regional Collaborative Committees identified by the 2014 Independent Review remain. The Gwent and North Wales Committees are widely regarded by the Welsh Government and other stakeholders as those operating the most effectively. However, even in these cases our interviews with key officers raised concerns about the added bureaucracy and the overall value for money of the committee arrangements given limited gains.
- 2.12 The Welsh Government requires Regional Collaborative Committees to report on their regional and sub-regional work, and how this work has developed since the previous reporting period. For the period October 2014 to 31 March 2015, the Welsh Government concluded that most of the feedback centred on work undertaken to align working practices. The same assessment concluded that the development of regional and sub-regional projects since the previous reporting period had been disappointing with opportunities to improve efficiencies via regional working potentially having been missed.
- 2.13 The Welsh Government did not produce its own review of the annual reports for 2015-16. Instead, the Supporting People National Advisory Board directed its governance sub-group to review these annual reports. The sub-group reached a positive conclusion about regional working for four of the six regions. For the Vale and Cardiff they pointed to only 'partial' action and for Western Bay 'limited or no action'.
- 2.14 We found that only two of the Regional Collaborative Committees – North Wales and Gwent – could demonstrate multiple examples of regional and/or sub regional projects (Box 4). In addition, some of the examples reported are not attributable to the impact of the committees. For example, two of the five regional projects cited by the Gwent Committee in its 2015-16 annual report pre-date the establishment of the Committee. Where collaborative working does happen it has tended to focus on developing common approaches to core processes and service reviews rather than genuine regional projects and services (Appendix 3).

Box 4: Regional and sub-regional projects and services operating, as of January 2017

North Wales Regional Collaborative Committee

Collaborative commissioning at a sub-regional level:

- Wrexham County Borough Council and Flintshire County Council jointly fund and manage the Domestic Abuse Floating Support project with the charitable housing association Hafan Cymru;
- Denbighshire County Council and Conwy County Borough Council jointly fund and manage the Doorstop project, which provides accommodation for people with substance misuse problems;
- a sub-regional Supported Lodgings and Nightstop Crashpad has been commissioned between Denbighshire County Council, Flintshire County Council and Conwy County Borough Council; and
- Denbighshire County Council and Flintshire County Council are jointly funding a refugee officer and Wrexham County Borough Council are accommodating/resettling Syrian refugees jointly with Denbighshire County Council.

Other sub-regional projects are being considered.

Gwent Regional Collaborative Committee

There are currently a number of regional and sub-regional services and schemes to support a range of client groups:

- Prolific offenders project
- Gypsy and Traveller Support Service
- Young People (aged 16-24)
- Two Older Persons Floating Support schemes
- Prison Release Empowerment Workers to support individuals both pre- and post-release from prison to find and maintain suitable accommodation

Mid and West Wales Regional Collaborative Committee

The Mid and West Wales area operates one sub-regional project, the West Wales Blood Borne Virus Service, which operates across three of the four local authorities on the Committee. The West Wales Blood Borne Virus Support Service and the Hywel Dda University Health Board are working in partnership to provide support for patients living with the blood borne viruses HIV, Hepatitis B or Hepatitis C.

Cwm Taf Regional Collaborative Committee

While there are no examples of regional services, since 2015, the two local authorities comprising the Cwm Taf Committee have each operated a floating support scheme to the same specification.

Box 4: Regional and sub-regional projects and services operating, as of January 2017

The Vale and Cardiff Regional Collaborative Committee

There are no examples of regional services.

Western Bay Regional Collaborative Committee

There are no examples of regional services.

- 2.15 Our interviews with Supporting People lead officers, Regional Development Co-ordinators and chairs and vice chairs of Regional Collaborative Committees identified a number of factors that had contributed to the lack of regional delivery of services:
- a the absence of ‘pooled’ budgets between local authorities represented on the Regional Collaborative Committees.
 - b reductions in Programme funding ([paragraph 2.42](#)) mean that local authorities have focussed on decommissioning services or maintaining their own local services, rather than working together to develop shared services. Yet financial pressures should encourage local authorities to identify where, including through collaboration, they can maintain existing services at reduced cost.
 - c difficulties aligning timelines for regional procurement of services when existing local authority contracts have different contract end dates.
- 2.16 Welsh Government officials emphasised to us that the issues identified above are not insurmountable. For example, the Communities and Tackling Poverty Alignment Project, which was established in 2015, created the option to vire funding between programmes. The Welsh Government has itself acknowledged the limitations of the Regional Collaborative Committees in developing regional services. In 2015, it carried out an assessment of the Programme’s strengths, weaknesses, opportunities and threats. This analysis found that collaborative working had progressed slowly in some areas, and not at all in other areas. The analysis questioned the value added by the committees. We also identified an ongoing concern that the committees ‘lack teeth’ and are not well placed to provide effective scrutiny of local authority spending decisions. These findings about regional working are relevant in the context of the Welsh Government’s wider ambitions for reforming local government.²⁰ They are also relevant in the context of the emphasis on collaboration as one of the five ways of working under the Well-being of Future Generations (Wales) Act 2015.

²⁰ Welsh Government, **Reforming local government: renewed and resilient**, January 2017.

Seven years after the Aylward Review identified the need for change, older people's services are still predominantly not based on an assessment of need

- 2.17 The 2010 Aylward Review recommended that '...the eligibility criteria for older people receiving Supporting People funds should be based on need rather than age or tenure'. The review highlighted concerns that all older people living in sheltered housing were entitled to receive Supporting People services, such as alarm systems and warden services, regardless of whether they needed these services. One of the consequences of this was that older people with support needs, but living outside of sheltered housing, were not receiving adequate support.
- 2.18 The Welsh Government's 2013 Programme guidance placed the responsibility for ensuring that older people's services are tenure neutral with the Regional Collaborative Committees. It required the committees to:
- a establish a timeline for achieving older people's services that are based on need, not tenure;
 - b ensure that constituent local authorities reported on how they are working towards the objective and the timescales for achieving it; and
 - c report on their progress to the Supporting People National Advisory Board – and for this to be a standing agenda item for the committees and the National Advisory Board.
- 2.19 The 2016 review of older people's services pointed to some gradual change. But it concluded that local authorities were still commissioning the substantial bulk of older people's services in such a way that they remain available only to tenants of local authorities and registered social landlords. The review identified that this situation reflected a heritage of historic service models rather than evidence of particular levels of need in these tenures.
- 2.20 For 2015-16, the Welsh Government asked the Regional Collaborative Committees to report on the proportion of spending on older peoples' services that is tenure neutral. Only one of the Committees provided specific data on the proportion of spend which was tenure neutral for all of the local authority areas in its region (Western Bay). Three of the other Committees provided data for some of the local authorities in their regions. The Cwm Taf and Gwent Committees did not provide any specific data at the time, although they did provide in their annual reports a commentary on progress. However, the Cwm Taf committee has reported to us that all its services for older people are now tenure neutral.

Progress in developing an approach to evaluation remains slow, and so the Welsh Government does not yet have a good enough understanding of the Programme's impact

In August 2012, the Welsh Government introduced a new framework to assess individuals' progress against a defined set of Programme outcomes

2.21 The Welsh Government began to develop an outcomes framework in 2008, some five years after launching the Programme. In 2010, the Aylward Review concluded that there was a need for a robust outcomes framework and a more rigorous approach to evaluating services. From November 2009 to May 2010, 17 local authorities, in conjunction with some other providers, had participated in a pilot project to assess performance against 11 outcomes. The Welsh Government asked providers to report whether, on completion of the intervention or at the six-monthly review, the outcomes for each individual receiving support had been 'met', 'partially met' or 'not met'. In April 2012, the Welsh Government confirmed that the 11 outcomes used in the pilot work would become the new 'Outcomes Framework', grouped under four broad themes (Box 5).

2.22 However, in contrast to the pilot work, the Welsh Government introduced a '5-step' approach to assess individual progress against Programme outcomes. The Welsh Government decided to use the step approach in recognition that, while many of those supported through the Programme may be a long way from tangible outcomes such as securing employment, the Programme has a role to play in helping them on that journey. The step approach works as follows:

- a on entering a Supporting People funded intervention, the service user and their support worker identify which of the 11 outcomes the service user wants to work towards. Multiple outcomes can be chosen and, for each outcome, an assessment is recorded using one of the five 'steps' (Box 6).
- b at review or on leaving a Supporting People funded intervention, the progress made towards meeting the intended outcome(s) is assessed and recorded.

Box 5: The current Supporting People Outcomes Framework

Promoting Personal and Community Safety

- Feeling safe
- Contributing to the safety and wellbeing of themselves and of others

Promoting Independence and Control

- Managing accommodation
- Managing relationships
- Feeling part of the community

Promoting Economic Progress and Financial Control

- Managing money
- Engaging in education/learning
- Engaged in employment/voluntary work

Promoting Health and Wellbeing

- Physically healthy
- Mentally healthy
- Leading a healthy and active lifestyle

Box 6: The 5-step approach used to assess progress towards meeting Programme outcomes

The Welsh Government defines the five steps in the following way:

Step 1

- The outcome for the service provider at this stage is to prevent or minimise harm to the service user and others and to develop trust with the service user.
- At this stage the service user may be unwilling to discuss a particular area of their life, such as managing money, or may be difficult to engage with.
- Service users should be supported in preventing the situation from getting 'any worse' until progress can be made towards relevant outcomes.

Box 6: The 5-step approach used to assess progress towards meeting Programme outcomes

Step 2

- Service users may be willing to discuss relevant outcomes, however they are unclear about how to make progress towards achieving the outcome and need considerable support in order to take the next steps.
- The service is focused on supporting the service user to increase their stability and give access to resources that should help the service user to define what they want to achieve.
- Service users may need considerable support to accept that they can control such areas of their life as managing money.
- This may be where support is in initial stages, and due to a number of factors (e.g. risk, health, capacity, prioritisation), the support worker may be taking the lead in driving progress.

Step 3

- Service users will have started to believe they can make a difference/change to this area of their life and will accept specific time-bound goals in order to achieve the expected outcome.
- This stage should focus on encouraging service users to work towards achievable goals on their own whilst providing support should they need it; but not doing it for them.
- Service users should be supported to reflect on what has gone well and positively supported when things have not gone well.

Step 4

- Service users should be supported to deal with difficulties themselves and to become more self-reliant and knowledgeable about how to seek support from an organisation without their support worker.

Step 5

- Service users should now be able to manage most issues in this area on their own.
- For the majority of the time, service users should be accessing services without support and supported to understand when/if they need extra support in this area.
- Service users should feel confident enough to start supporting themselves in dealing with issues in this area.
- In long-term services: service users will accept they may always need support in this area but they are maintaining their optimum level of independence in achieving their goal or preventing loss of optimum independence by having long-term support.

Source: Welsh Government, **Supporting People Outcomes Framework Guidance**, April 2012

The current Outcomes Framework has a number of limitations which make it difficult to form a comprehensive judgment of the success of the Programme and there is a lack of confidence in the data that has been collected

2.23 Through the current Outcomes Framework, the Welsh Government has more clearly established what it expects the Programme to achieve. Nevertheless, in our view there remain limitations in its design. The Welsh Government has not established any indicators or criteria for assessing the success of the Programme. The Welsh Government has identified the areas it expects to see service users make progress in but has not quantified the scale of the impact it expects the Programme to deliver. Nor has there been a clear and straightforward relationship between data collected through the Outcomes Framework and the Programme aims.

2.24 Many of those involved in managing delivery of the Programme told us that the outcomes data was time consuming to collect. Moreover, many lacked trust and confidence in the accuracy of the data. In response, the Welsh Government emphasised to us its view that where local authorities lack confidence in the data, they should work more closely with support providers to address these issues. The concerns relate primarily to the subjective nature of the 5-step assessment.²¹ However, there are also concerns that:

- a some providers are making judgements without discussing progress with the service user. The Welsh Government's guidance does not make clear whether there should be dialogue when support begins or what should happen if a support worker and service user cannot agree on the extent of progress made.
- b the process may not be impartial. For example, it could be in a provider's interest to put a positive slant on progress to show their intervention is effective.

2.25 Early work by the North Wales Supporting People lead officers showed that, at least in the first few years of using the Outcomes Framework, providers did not have shared understanding of what each step meant. In evidence submitted to the Welsh Government in August 2014, the lead officers argued that concerns about the Outcomes Framework data meant that less weight was given to it during service reviews compared with other sources of data.

²¹ Any assessment of the degree of progress reflects not only progress made towards achieving specific goals, which can itself be a subjective judgement, but also reflects a more subjective judgement about the level of control and responsibility the service user is taking over the challenges they are experiencing.

- 2.26 The Welsh Government has itself identified concerns with the completeness and accuracy of the data. It found a discrepancy when comparing the number of people that the Programme expected to support in 2012-13 and 2013-14 with the number of individuals for which councils reported outcomes. Some of our interviewees raised particular concerns about the reliability of the 2012-13 and 2013-14 outcomes data following changes to the reporting requirements due to data protection concerns.
- 2.27 The Welsh Government has since challenged local authorities to provide better data. From March 2015, each local authority completes a spreadsheet identifying for each client category the minimum number of outcomes expected by the Welsh Government and the actual number of outcomes reported in the previous six months. Where the outcomes data appears to be incomplete, the Welsh Government challenges the data provided. The Welsh Government's view is that the following increase in outcomes reported demonstrates better reporting of outcomes by local authorities. Local authorities reported one or more outcomes for 30,008 individuals and 32,544 individuals during October to March 2012-13 and 2013-14 respectively. For the same period in 2015-16, one or more outcomes were reported for 57,453 individuals.
- 2.28 Changes to the data collection template mean that the Welsh Government is also now able to quantify how many individuals are supported but for whom outcomes are not reported for a number of possible reasons²². For the period October to March 2015-16, the Welsh Government identified that over 20,000 potential outcomes had not been reported. This equates to 9% of all reportable outcomes.
- 2.29 Concerns about the outcome data persist, as expressed in the 2015-16 annual reports of two of the six Regional Collaborative Committees – Mid and West Wales and the Vale and Cardiff. In addition, the Welsh Government raised fresh concerns during 2016-17 about the data being submitted by local authorities in North Wales.
- 2.30 Nevertheless, there are examples of where local authorities and Regional Collaborative Committees are using the outcome data. The Cwm Taf Committee has reported that the outcomes data is presented routinely to assist in decision-making about future service provision. Monmouthshire County Council told us that it had been able to make good use of Outcomes Framework data to identify issues around service delivery. For example, the Council's analysis of the data had highlighted issues with fair access to services for both men and women. Building on that analysis, the council undertook further research and took action to address access issues for men.

²² Outcome information is only collected for people with a support plan in place and who have had a review within the reporting period. Outcomes are also not reported in all cases by providers.

- 2.31 The Welsh Government has drawn limited conclusions about the impacts of the Programme between October 2015 and March 2016 based on the outcome data reported by local authorities. In bringing together this analysis in a high-level working document sent to local authorities, the Welsh Government has aggregated outcomes:
- a **Feeling safe and managing money:** overall, an average of 61% of service users, for whom these outcomes were relevant, achieved a positive outcome across these two outcome areas, up 2% from the previous period (April 2015 to September 2015).
 - b **Managing accommodation:** overall, an average of 62% of service users, for whom these outcomes were relevant, achieved a positive outcome in this area, up 4% from the previous period.
 - c **Physically healthy, mentally healthy and leading an active and healthy lifestyle:** an average of 59% of service users, for whom these outcomes were relevant, achieved a positive outcome across the three outcome areas, up 5% from the previous period.
 - d **Contributing to the safety of themselves and the well-being of others, managing relationships and feeling part of the community:** an average of 63% of service users, for whom these outcomes were relevant, achieved a positive outcome across the three outcome areas, up 4% from the previous period.
 - e **Engaging in educational learning and engaging in employment/voluntary work:** an average of 58% of service users, for whom these outcomes are relevant, achieved a positive outcome across these areas, up 8% from the previous period.
- 2.32 The Welsh Government has emphasised to us that it only regards this analysis as indicative. Aggregating the data could mask different trends for different outcome areas and it hides some substantial variation in the percentage of service users in different categories achieving positive outcomes. Furthermore, the figures reported in the document do not distinguish between what are reported as partial or fully met outcomes. In practice, partial outcomes account for almost 50% of the reported positive outcomes. In addition, the percentage of positive outcomes reported do not cover all service users for whom the outcomes were relevant due to underreporting of outcomes ([paragraph 2.28](#)).
- 2.33 The Welsh Government expects local authorities and the regional committees to consider the data in more detail. Local authorities hold details on individuals' progress that is not available to the Welsh Government.

2.34 As another way of demonstrating the positive impacts due to the Programme, the Gwent region initially put together together a series of case studies, an approach which was replicated by North Wales (Appendix 6). The regions have used the case studies to highlight potentially substantial savings to other statutory services as a result of the Supporting People Programme.

The Welsh Government is planning to revise the outcomes framework in an effort to address some of the current concerns

2.35 The Welsh Government has acknowledged the limitations of the Outcomes Framework and is planning to revise it (Box 7). Although still to be finalised, the main changes proposed are:

- a **to reduce the number of outcomes from 11 to 7 and replace the current five-step process with three steps.** Although the exact definitions of the three steps have yet to be confirmed, the consultation document gives the examples below:
 - Step 1: ‘I would like to work towards X’ – where X is one of the seven outcomes;
 - Step 2: ‘I am working towards X’; and
 - Step 3: ‘I have achieved X’.
- b **for local authorities to submit data on a range of ‘harder’ measures.** For example, about ‘the number and/or percentage of people who have suitable accommodation which is likely to last at least six months’.
- c **for local authorities to submit equality-related information.** For example, on sexual orientation and disability, to allow the Welsh Government to evaluate the Programme against equality requirements.

2.36 However, as currently drafted, the revised arrangements may not fully address the concerns about the current framework and outcomes data. Nor would the proposed approach demonstrate definitively the impacts of the Programme on areas such as homelessness. Specifically:

- a in reducing and redefining the ‘steps’ the Welsh Government has increased the likelihood that judgements about progress are more consistent. In addition, a range of other ‘harder’ measures such as number and/or percentage of people who have entered employment will support the Outcomes Framework. However, the Outcomes Framework will still rely upon some subjective assessments of progress with the attendant risk that the data is not perceived to be reliable for the reasons identified above (paragraph 2.24).

Box 7: Revised Outcomes Framework: proposed seven outcomes and performance indicators

Outcome 1: People feel safe:

- Number and/or percentage of those supported who feel safe.

Outcome 2: People are able to manage their money:

- Number and/or percentage of clients supported whose financial situation has stabilised and/or improved.

Outcome 3: People have accommodation and are able to manage it/People who are not at imminent risk of homelessness:

- Number and/or percentage of people who have suitable accommodation which is likely to last at least six months.
- Number of people who are under a S66 duty; the Housing (Wales) Act 2014 places a statutory duty upon local authorities to support eligible individuals to remain in suitable accommodation.
- Number of people who are S73 homeless; the Housing (Wales) Act 2014 places a statutory duty upon local authorities to help eligible individuals to find suitable accommodation.

Outcome 4: People are engaged in education and/or learning:

- Number of people who are engaged in education and/or learning to a level 2 qualification or above²³.
- Number of people who have been supported to access a learning activity that may include basic skills training but which is below a level 2 qualification.

Outcome 5: People who are engaged in Employment/voluntary work:

- Number and/or percentage of people who have entered employment.
- Number and/or percentage of people who are volunteering.

²³ The Welsh Government has defined level 2 education as 'GCSEs (grades A*-C), O Levels (grades A-C), CSEs (grade 1), Award, Certificate, Diploma (City & Guilds, CACHE, OCR, BTEC/Edexcel/Pearson), English for Speakers of Other Languages (ESOL), NVQ Level 2, National Certificate/Diploma, Intermediate apprenticeship, Functional Skills Essential Skills, Music (grades 4-5)'.

Box 7: Revised Outcomes Framework: proposed seven outcomes and performance indicators

Outcome 6: People who are physically healthy:

- Number and/or percentage of people who receive help to manage their physical health condition.

Outcome 7: People who are mentally healthy

- Number and/or percentage of people with improved emotional/mental wellbeing.

In addition, to collecting data on the above measures, local authorities will be expected to provide data for a range of measures related to the individuals housing and employment, education and housing status when they enter and exit the support service.

Source: Welsh Government

- b the Welsh Government acknowledges the need to develop a database to reduce the time spent collecting and verifying data and to reduce errors in data recording. In its recent consultation on the revised Outcomes Framework, the Welsh Government does not commit to funding such a database, although any final decision will take account of consultation feedback.
- c measuring performance indicators does not demonstrate by itself that the Programme in question is responsible for any movement in the indicator either up or down. Attributing causality requires also in-depth longitudinal and qualitative research, and the Welsh Government is not planning any such evaluation.

Separate to work on developing the Outcomes Framework, there is some as yet limited evidence that the Programme reduces demand for health services

2.37 In February 2015, the Welsh Government approved funding for a study to explore the feasibility of linking administrative data on use of health services to individuals receiving Supporting People funded services.²⁴ The overall aim was to assess the contribution data linking techniques could make to the evaluation of the Supporting People Programme. For some Supporting People service users, the feasibility study examined health service use both in the period before and in the period after the Supporting People intervention in comparison with a 'control' group.²⁵

24 Welsh Government, **Supporting People Data Linking Feasibility Project: Research Report**, March 2016

25 The control group consisted of individuals who were referred to Supporting People but who were recorded as 'unsuccessful' and were therefore not provided with support or who were provided with support but 'failed to engage'.

- 2.38 Only two local authorities (Blaenau Gwent and Swansea) were able to provide the data in the format required within a very limited timescale. Broadly, the study found that on average all Supporting People service users in Swansea, and those service users in Blaenau Gwent receiving floating support, used GP services more than a 'control' population, and for some Supporting People service users in Swansea and Blaenau Gwent a similar pattern was seen for A&E visits. After this initial peak, in comparison to the control group, Supporting People service users showed a greater decline in their use of GP services in the months after the intervention began. The implication being that those who had received a Supporting People intervention were less likely to need to use health services over the longer term.
- 2.39 The feasibility study concluded that there is the potential to use data linking techniques to examine the impact of the Programme on health and other services. However, the report emphasised that a broader dataset is needed to support any definite judgements about the impact of the Supporting People Programme on health services.
- 2.40 The Welsh Government has taken action against some of the feasibility study report's recommendations and is providing £201,000 for a four-year all-Wales data linking study. The Welsh Government has revised grant terms and conditions to ensure local authorities collect information that will allow Supporting People data to be linked to anonymised data held about that individual's use of health services, for example, through the use of postcodes. It has also inserted a requirement for local authorities and providers to ensure relevant documents make individuals aware of how this data will be used. The Welsh Government is still considering a recommendation about developing a model to quantify the cost savings for health services due to the Programme. Because of cost constraints, the Welsh Government has decided against taking forward a qualitative study to construct a better control group and to provide explanations for the observed patterns of health service use.
- 2.41 Progress with the new four-year study has been slower than anticipated. The first-year report, published in June 2017,²⁶ notes that data has been acquired from eight councils²⁷ with a further 11 confirming that the necessary legal documentation to share data is in place. Three local authorities did not engage with the project in year one. The first year report highlights that challenges still exist in terms of data quality but that progress has been made to improve future data collection and supply.

26 Welsh Government, **Supporting People Data Linkage Study: Progress Report**, June 2017

27 Swansea, Blaenau Gwent, Rhondda Cynon Taf, Merthyr Tydfil, Cardiff, Newport, Torfaen and Caerphilly.

Funding has continued to be ring fenced, in contrast to the situation in England and Scotland, but there are some concerns about the impact of budget reductions on the quality and sustainability of Supporting People services

- 2.42 In the context of wider pressures on the Welsh Government's budget, between 2013-14 and 2016-17 the total annual Programme funding has reduced by 8.5% (£11.6 million) in cash terms. In real terms, there has been a 10.5% (£14.6 million) reduction. However, overall local authority allocations have remained the same in cash terms since 2015-16 ([Appendix 4](#)).
- 2.43 In Wales, funding for the Supporting People Programme continues to be 'ring-fenced', in contrast to England and Scotland. This means that, in Wales, Programme funding can only be used to fund housing-related support services to assist vulnerable people to live as independently as possible. We found near unanimous support for the Welsh Government's decision to retain the ring-fencing.
- 2.44 The National Audit Office has reported that spending on Supporting People interventions in England fell in real terms by 45% between 2010-11 and 2014-15.²⁸ English service providers have suggested that, since the ring-fence was removed, funding has been diverted to statutory services that local authorities have been struggling to deliver because of the overall reductions in central government funding.²⁹ Some English providers also suggested that reductions in spending on Supporting People services are likely to have reduced service quality, and will over the longer-term lead to higher costs. In response to reduced Programme funding in Wales, some Supporting People service providers have expressed similar concerns about the impact on service quality ([paragraph 2.54](#)).
- 2.45 Some Supporting People lead officers explained to us that they had found savings through reviewing their Supporting People Revenue Grant legacy schemes. For some local authorities their reviews identified services that were no longer strategically relevant or not providing value for money and were subsequently remodelled or decommissioned. We asked local authorities to quantify the savings arising from these reviews, but most were not able to confirm figures:
- a Flintshire County Council reported total savings of £185,000 between 2013-14 and 2017-18;
 - b Neath Port Talbot County Borough Council reported a total of £0.2 million non-recurring savings between 2013-14 and 2015-16; and

²⁸ National Audit Office, **Impact of funding reductions on local authorities**, November 2014

²⁹ The Guardian, **Supporting People cuts leave housing sector unable to help most vulnerable**, August 2011

- c Vale of Glamorgan Council reported total recurring savings of £150,000 from 2016-17 onwards.
- 2.46 By reviewing other services on an ongoing basis, some local authorities have identified opportunities for savings, including through reviews to services provided for people with learning disabilities. We have not sought to quantify the savings accrued from all these reviews, and not all local authorities have undertaken such reviews.
- 2.47 In principle, the development of regional and sub-regional working practices and/or specific services (Box 4) may also have yielded some financial savings. However, we have not seen any figures quantifying any such savings. In addition, some local authorities provided us with examples of where they have supplemented Supporting People grant with their own funding³⁰ to help offset a reduced grant allocation.
- 2.48 Our analysis suggests that one of the ways in which local authorities have dealt with budget reductions has been to change from generally more expensive fixed support to less expensive floating support.³¹ Since 2014-15, there has been a small but noticeable change in the overall proportion of Programme funds spent on fixed and floating support (Figure 3). The Welsh Government's view is that higher levels of floating support are an indicator of local authorities intervening earlier to address issues before they reach crisis point and individuals require fixed support services. This approach is in line with the preventative agenda set out within the Well-being of Future Generations (Wales) Act 2015 and could be more cost-effective in the longer term. However, respondents to a 2016 Community Housing Cymru survey (paragraph 2.54) expressed the view that local authorities are funding fewer intensive services to achieve cost savings and that this would have a detrimental impact on service users.
- 2.49 The Welsh Government requires local authorities to submit annual spending plans that outline in 'units' how they intend to spend their allocation of Programme funds. Where the support is floating, the term unit refers to the number of people a support worker is funded to help. Where the support is fixed, the term unit refers to the number of beds provided through the Programme. The Welsh Government's analysis of spending plans for the period 2013-14 to 2016-17 found the number of units supported by the Programme has fallen at a higher rate than Programme funding. The Programme budget reduced by 9.5% in cash terms (£13 million), while the number of units supported fell by 17.6% (12,319).

30 In response to the Welsh Government reducing its grant allocation for the Supporting People Programme for Conwy and Wrexham, the local councils contributed £1.1 million and £2.5 million respectively between 2012-13 and 2015-16.

31 In 2016-17, there were 17 client categories with expenditure on both fixed and floating support. Of these, fixed support was more expensive in 14 cases.

Figure 3: proportion of the Supporting People Programme funds allocated to floating and fixed support units, 2013-14 to 2016-17

Year	Floating support (%)	Fixed support (%)
2013-14	44.7	55.3
2014-15	43.8	56.2
2015-16	46.8	53.2
2016-17	49.7	50.3

Note

This analysis excludes Programme funds spent on alarm services, which the Welsh Government discounts from much of its analysis as it claims it distorts the overall picture.

Source: Welsh Government

2.50 The Welsh Government has concluded that, for the most part, the overall reduction in units was in four categories: provision of alarms in sheltered accommodation for older people; services for people over 55 years of age with support needs; people with chronic illnesses and people with physical/sensory disabilities. Our own analysis shows that,

- a alarm services accounted for 65% of the overall decline in services;
- b services for people over 55 years of age accounted for 25% of the decline in units;
- c people with physical/sensory disabilities accounted for 7% of the decline in units; and
- d people with chronic illnesses accounted for 2% of the decline in units.

2.51 Some reduction in the numbers of sheltered accommodation units with alarms funded through the Programme would be expected as local authorities seek to meet the recommendations of the Aylward Review (paragraph 2.3). Figure 4 shows that between 2013-14 and 2016-17 alarm services saw the greatest percentage reduction in spend. However, learning disabilities and generic floating support are the two areas that experienced the largest reduction in cash terms, of over £5 million in both cases.

Figure 4: client categories within the Supporting People Programme with the largest percentage reductions in expenditure between 2013-14 and 2016-17

Client category	Change from 2013-14 to 2016-17 (%)	Change from 2013-14 to 2016-17 (£ millions)
Alarm services (including in sheltered/extra care) *	-45	-1.88
Generic floating support to prevent homelessness	-25	-5.36
People with chronic illnesses	-25	-0.04
Young people who are care leavers	-20	-0.16
Single people with support needs (25-54)	-19	-1.01
People with physical and/or sensory disabilities	-18	-0.33
People with learning disabilities*	-16	-5.85
People with criminal offending history*	-16	-0.44
People with substance misuse issues (drugs and volatile substances)	-15	-0.67
Young people with support needs (16-24)*	-11	-1.65
Women experiencing domestic abuse*	-10	-0.94

Note

* All the client categories in this table showed an overall decline in spend between 2013-14 and 2016-17. However, this trend was not consistent across all years and there was some fluctuation. Only the five categories highlighted showed a consistent reduction year on year. Appendix 5 provides the year-on-year figures.

Source: Wales Audit Office analysis of Welsh Government data

- 2.52 Four client categories received more funding in 2016-17 in cash terms than in 2013-14; people with substance misuse issues (alcohol); men experiencing domestic abuse, people with refugee status and people with developmental disorders. However, the overall proportion of Programme funding for the latter three of these groups together remained relatively small, at less than 1% (Appendix 4).
- 2.53 The Welsh Government considers that the reduction in spending on 'people with learning disabilities' was very likely to be because local authority reviews had found that some support was ineligible. Typically, these reviews found that some support provided through the Supporting People Programme was not housing-related support, but was 'care' support, which is not eligible for support under the Programme. The Welsh Government does not have any intelligence on whether other funding sources are filling the gap left by removing Supporting People funding. We have not followed up this issue with all local authorities.³² However, we know of one authority (Blaenau Gwent), which remodelled its learning disabilities services to remove elements of care from the Supporting People Programme and fund them instead from its adult social care budget.
- 2.54 The lack of robust outcomes data (paragraphs 2.23 to 2.36) means that we are unable to assess the impact of the changes made in response to budget reductions. However, a 2016 survey of Community Housing Cymru and Cymorth Cymru members identified a range of concerns about the quality and sustainability of Supporting People services due to the funding reductions. The survey had a response rate of approximately 33%, and it is not known whether the concerns expressed by survey respondents are held more widely.
- 2.55 Some of the Supporting People lead officers, providers and Regional Collaborative Committee vice-chairs that we interviewed raised specific concerns about the quality or sustainability of services. However, such concerns were not widely expressed.

32 The Auditor General is currently undertaking an examination of how local authorities strategically commission their learning disability services. The work is focussing on how commissioning contributes to improved outcomes and wellbeing for citizens. The Auditor General will report on this work towards the end of 2017.

The redistribution of funding towards areas of greatest geographical needs has not progressed as rapidly as anticipated

The Welsh Government suspended the funding formula during 2013-14, although it did continue with some element of redistribution

- 2.56 The Welsh Government developed and implemented a new funding formula for 2012-13 and 2013-14. In line with an Aylward Review recommendation, the purpose of the funding formula was to redistribute funding for the Programme to the geographical areas of greatest need.³³
- 2.57 In 2014-15 and 2015-16, the Programme as a whole experienced budget cuts of 1.3% and 7.4% respectively in cash terms. Following consultation with stakeholders and modelling of the impacts of budget cuts on individual local authorities, the Welsh Government decided to suspend the formula. It was concerned that continuing to apply the formula would result in some local authorities experiencing cuts so large as to destabilise services. For example, between 2012-13 and 2013-14, Cardiff Council's allocation had already reduced by £0.8 million through redistribution. Other local authorities in North Wales together lost approximately £0.3 million.
- 2.58 However, the Welsh Government did continue with some element of redistribution:
- a for 2014-15, the local authorities expecting a reduction under the redistribution formula received a cut in their funding allocation. Those expecting an increase in their allocation under the redistribution formula did not receive one, but nor did they experience a cut in their allocation.
 - b for 2015-16, all local authorities received a reduction in funding, but those who were due to lose under the redistribution formula had a bigger reduction than those expecting to gain.
- 2.59 For 2016-17 and 2017-18, the Programme budget remained stable and all 22 local authorities received the same allocation in cash terms as in 2015-16.

³³ The original method was flawed as funding allocations were entirely determined by the resources local authorities had available to allow them to apply for funding, and how active they were in promoting applications from people in need.

2.60 There has been some movement towards redistribution of funding through the application of the formula. However, had the formula continued to have been implemented some local authorities would have received significantly more in 2016-17, and some significantly less, than their actual allocations (Figure 5). At the extremes:

- a Denbighshire received a total of £1.94 million more than it would have done had the Welsh Government continued to implement the formula, which amounted to £20.53 per head of population; and
- b Merthyr Tydfil received a total of £1.69 million less than it would have done had the Welsh Government continued to implement the formula, which amounted to £28.43 per head of population.

2.61 During our fieldwork, the local authorities that expected to receive increases in funding through the redistribution formula expressed frustration at the suspension of the formula. In contrast, local authorities facing the biggest reduction in their funding because of the funding formula expressed concerns about how they would manage if the Welsh Government were to reintroduce it. Also, some councils have expressed residual concerns about the basis of the formula.

Figure 5: amount of funding each local authority received in 2016-17 compared with what they would have received had redistribution continued

Local Authority	2016-17 per head of population (£s)	Projected amount to be received in 2016-17 per head of population if redistribution had been fully implemented (£s)	Difference between actual and projected expenditure per head of population (£s)	Difference in cash terms (£millions)
Merthyr Tydfil	35.79	64.22	-28.43	-1.69
Blaenau Gwent	36.7	53.09	-16.39	-1.14
Neath Port Talbot	34.01	46.94	-12.93	-1.82
Pembrokeshire	22.03	33.67	-11.64	-1.44
Rhondda Cynon Taf	38.15	43.93	-5.79	-1.37
Carmarthenshire	35.09	40.81	-5.72	-1.06
Newport	43.09	48.72	-5.63	-0.83

Figure 5: amount of funding each local authority received in 2016-17 compared with what they would have received had redistribution continued

Local Authority	2016-17 per head of population (£s)	Projected amount to be received in 2016-17 per head of population if redistribution had been fully implemented (£s)	Difference between actual and projected expenditure per head of population (£s)	Difference in cash terms (£millions)
Bridgend	40.93	46.1	-5.17	-0.73
Caerphilly	34.6	37.94	-3.35	-0.6
Vale of Glamorgan	27.17	28.41	-1.24	-0.16
Torfaen	37.43	37.64	-0.2	-0.02
Monmouthshire	22.05	21.71	0.34	0.03
Swansea	57.01	55.51	1.49	0.36
Cardiff	45.55	43.88	1.67	0.6
Wrexham	36.45	34.46	1.99	0.27
Isle of Anglesey	37.78	35.71	2.07	0.14
Gwynedd	41.05	33.04	8.01	0.98
Ceredigion	39.42	28.79	10.63	0.79
Powys	38.74	26.02	12.72	1.69
Flintshire	37.71	24.24	13.47	2.07
Conwy	55.52	38.23	17.29	2.01
Denbighshire	57.97	37.45	20.53	1.94

Note:

For comparative purposes, we have presented some of the above data on a per head of population basis. However, the formula that the Welsh Government developed to support redistribution is not simply population based and sought to take into account levels of local housing related support needs.

Source: Wales Audit Office analysis of Welsh Government data

The Welsh Government has been considering implementing a revised funding formula, but the timeframe for doing so has not been confirmed

- 2.62 The Welsh Government is currently considering the feasibility of introducing a revised funding formula to continue the redistribution of Programme funds to geographical areas of greatest need. In so doing, it is responding to a recommendation from the Supporting People National Advisory Board. The Welsh Government is conscious that reintroducing such a formula, potentially at a time of further Programme budget reductions, is likely to have an impact on some services locally. However, the Welsh Government also acknowledges that Programme funding should be allocated based on need rather than historic provision. The previous formula contains a number of variables for which there are no up-to-date figures.
- 2.63 The Supporting People National Advisory Board had been encouraging the Welsh Government to implement the new formula for 2018-19. This is likely to be an overly ambitious timeframe, as the Welsh Government has not yet undertaken any work to identify potential data components to be included in a revised formula. Reaching agreement on the formula introduced in 2012-13 proved challenging and took 12 months of work before it was implemented.
- 2.64 To implement the formula for 2018-19, the Welsh Government would need to have devised it in time for local authorities to receive their indicative allocations in late 2017 and submit their spend plans in January 2018. In addition, without a clear understanding of what funding levels for the Programme will be over even the medium term, it will be difficult for the Welsh Government to model the impact of any formula on individual local authority allocations. The introduction of any new formula also needs to take account of the confirmed strategic objectives following the recent consultation and the impact of wider policy developments ([paragraph 1.5](#)).

Part 3

There are inconsistencies in the way the Programme is being managed at a local and regional level, due in part to inadequate Welsh Government guidance



- 3.1 This part of the report examines aspects of the local and regional management of the Programme. Specifically, it considers issues relating to regional planning, the procurement of services, analysis of the costs of services and the quality of Programme management at a local level.

Regional Commissioning Plans are informed by needs assessments, but the Welsh Government has identified that the quality of these assessments varies

- 3.2 The 2013 Programme guidance outlined the requirement for each local authority to carry out needs and supply mapping, and to undertake a gap analysis, for all groups eligible to receive support. The purpose of needs mapping is to ensure that robust evidence underpins local authority commissioning plans and decision making.
- 3.3 The guidance states that needs and supply mapping and a gap analysis should be undertaken on a regular basis. The Welsh Government does not expect this activity to be undertaken every year for all eligible groups. However, it does specify that where an emerging priority or gap in service provision is identified, the local authority is responsible for gathering further information on needs and the availability of appropriate services. The guidance also states that needs mapping and gap analysis must be informed by engagement with stakeholders and service users. In addition, regional mapping of needs should be carried out to help identify priorities within the Regional Collaborative Committees' commissioning plans.
- 3.4 The Welsh Government has not reviewed in detail the quality of local authority or regional needs mapping and analysis. However, it has identified variations in the quality of the work undertaken. The Welsh Government has highlighted that in Gwent there are good examples of a range of national, regional and local data being used to provide a picture of the supply and demand for services. However, the Welsh Government has also highlighted a number of concerns in other regions:
- a in some cases, it is not clear how Supporting People teams and the Regional Collaborative Committees use information from needs mapping.
 - b in one area, the Welsh Government has highlighted the need for a consistent approach to needs mapping across the region in each of its three reviews between 2014-15 and 2016-17.

- c in a number of cases, there is too much focus on collecting information on demand only and not enough action to identify unmet needs.
 - d at least one Regional Collaborative Committee does not have a consistent approach to needs mapping across all its constituent authorities. Consequently, the constituent local authorities are using different datasets, which are difficult to combine to produce a regional analysis.
- 3.5 Public Service Boards³⁴ are now required to carry out assessments of local wellbeing under the Well-being of Future Generations (Wales) Act 2015. In addition, health boards and local authorities are also required to carry out population assessments of care and support needs under the Social Services and Well-being (Wales) Act 2014. There may be scope to use the local needs mapping analysis from these two processes to reduce duplication of effort and gather information about unmet needs. The Welsh Government has encouraged Regional Collaborative Committees to make links with Public Service Boards. Since 2016, the committees have been required to provide feedback in their annual reports on the links they have made with these boards. The extent of progress reported varies.

The Welsh Government has provided only annual funding allocations in recent years which has hampered local planning

- 3.6 The 2013 Programme guidance stated that, in March of each year, the Welsh Government would provide local authorities with a firm allocation for the new financial year, and an indicative financial allocation for the following two financial years. However, since the end of 2012-13, the Welsh Government has provided local authorities with figures for a three-year period on only one occasion. Specifically:
- a in December 2012, the Welsh Government issued indicative figures for 2014-15 and 2015-16;
 - b in October 2013, the Welsh Government gave indicative figures for 2014-15 and 2015-16; and
 - c in November 2014, January 2016 and December 2016, the Welsh Government gave indicative figures for the following financial year only.

³⁴ Public Service Boards are statutory partnerships of public service agencies who are responsible for working together to improve the economic, social, environmental and cultural wellbeing in their area. Each local authority is required to establish such a board.

- 3.7 In addition, in three of the four years since 2012, the Welsh Government was late issuing its final grant offer letters to local authorities. In particular, local authorities did not receive their grant letters for 2014-15 until mid-May. However, we understand that only for 2014-15 was there a difference between the indicative and final grant allocated. Before issuing the 2014-15 final grant offer letters, the Welsh Government decided to fund Regional Development Co-ordinator posts from the Supporting People Programme budget. Prior to 2014-15, the Regional Development Co-ordinator posts were funded from the Social Housing Management Grant.³⁵ After issuing the indicative allocations for 2014-15, the Welsh Government decided to fund the posts from the Supporting People Programme. Because of this change, for 2014-15 the Welsh Government reduced the allocation of each local authority by just under £15,000. The Supporting People Programme has continued to fund the posts since 2014-15.
- 3.8 Local authorities must submit their spend plans for the financial year ahead to the Welsh Government in the third week of January. Local authority Supporting People lead officers expressed concerns about their ability to plan effectively given the tight timescales between receiving their indicative allocations for the financial year ahead and submitting their spend plans.
- 3.9 Between receiving their indicative allocations and submitting spending plans to the Welsh Government, the Welsh Government's guidance requires local authorities to ensure that their spending plans are 'signed-off' by local authority members. There is a role for the relevant Regional Collaborative Committee to contribute to the plans and provide effective scrutiny. However, the timescales for submitting spending plans have made this difficult in practice, which can result in the Committees' involvement being little more than a rubbing-stamping exercise.
- 3.10 Local authority Supporting People lead officers were also frustrated by the annual approach to setting budgets for 2015-16, 2016-17 and 2017-18. They told us that this annual allocation, together with the prospect of further funding reductions, creates stagnation in the Programme, hinders their ability to establish long-term services, has created a culture of small one-off pilot schemes and causes instability in service provision and high staff turnover. A number of local authority lead officers told us that they would like to be able to fund their service providers for three years at a time. This is particularly the case where there has been a review of services and these providers have been found to be providing value for money. However, the Welsh Government's own reviews have highlighted examples where local authorities have issued a substantial number of three-year contracts.

³⁵ The Social Housing Management Grant has been renamed the Housing Policy Development Programme. It helps to pilot innovative management policies and schemes, develop housing management good practice and help with implementation of new housing management policies.

3.11 The challenges of managing with an annual allocation of funding are not unique to the Supporting People Programme. We have highlighted similar issues in a number of other reports over the past year. The Welsh Government recognises the limitations of providing local authorities with one-year Supporting People budgets. However, officials told us that given the current financial climate there are no plans to alter this approach.

The Welsh Government's guidance on the procurement of Supporting People services is potentially misleading and there is some evidence of variable procurement practice

Welsh Government guidance on procurement rules has created expectations among providers that cannot necessarily be met by local authorities

- 3.12 During our fieldwork some Supporting People service providers told us that, in their view, some local authorities were re-tendering for Supporting People services where this was not required, with the main aim of driving down the costs of the services. The current Programme guidance states that 'New services should be subject to normal procurement practice and regulation, but provided that a robust and regular review regime is practised, it would not be anticipated that Supporting People services would be re-tendered on a routine basis and any re-tendering exercises would normally only take place following a service review. This will have established whether a service was not strategically relevant, of low quality or did not reflect acceptable cost guidance and was not able to make the changes to address identified shortcomings.'
- 3.13 Local authority Supporting People officers told us that they would appreciate clearer guidance about retendering. However, the revised Programme guidance that the Welsh Government has issued for consultation continues to imply that retendering need only take place where a service review has found the service to be deficient in some way.
- 3.14 In our view, this guidance on re-tendering existing Supporting People services is potentially misleading. The overall contract value and the type of service dictate the specific process to be followed to comply with procurement regulations. But there is still an expectation that public bodies procure all services in accordance with the principles of the public procurement regulations, which should naturally lead to periodic market-testing. In addition, the Welsh Government's grant terms and conditions state that goods and/or services to deliver Supporting People purposes must be purchased in a competitive and sustainable way so as to demonstrate value for money.

- 3.15 Public Contracts Regulation (2015)³⁶ states that an extension where there is no contractual provision for one is a material modification of the original contract and as such would require the services to be retendered. Extending contracts without provision to do so is in principle akin to directly awarding a contract through a single tender action³⁷. Where local authorities undertake a single tender action all reasons for such action should be evidenced and defensible. Procurement regulations allow for single tender actions in certain conditions, including:
- a the need for extreme urgency;
 - b where only one tender has been received;
 - c protection of exclusive rights; and
 - d technical reasons mean there is only one possible supplier.
- 3.16 We found that the guidance has created tensions between providers and local authorities. It has fostered the view among some providers that, as long as services are providing value for money, local authorities should not retender the services. A joint survey of Supporting People service providers undertaken by Community Housing Cymru and Cymorth Cymru ([paragraph 2.54](#)) also found that the guidance had contributed to providers' expectations about the extent to which public bodies should retender for services.
- 3.17 In our recently published report on **Local Authority Funding of Third Sector Services**,³⁸ we found similar evidence of a small number of local authorities continuing to procure services from the same third-sector organisations without regularly testing the market to ensure they are securing the best return on their resources. Such an approach risks:
- a reducing the pool of potential suppliers;
 - b inadvertently working against the Welsh Government's objective of local authorities developing local third-sector organisations;
 - c creating frustration amongst providers where they consider such closed approaches inequitable; and
 - d limiting opportunities for local authorities to drive further improvements and efficiencies.

Although, we also acknowledged that working within established partnerships can reduce or limit these risks for local authorities.

36 The Public Contract Regulations (2015) transpose into English, Welsh and Northern Irish law the European Union Directive on public procurement (Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement).

37 Where a contract is awarded to a single provider or limited group of providers – without competition.

38 Auditor General for Wales, **Local Authority Funding of Third Sector Services**, January 2017

There is evidence of variable procurement practice, with some local authorities making more use of contract extensions than others rather than going out to back out to tender

- 3.18 In response to the concerns raised by providers about procurement practices, we gathered some additional information from local authorities. We asked each local authority for the total number of contracts extended and for the total number of contracts awarded through a full procurement exercise during 2015-16.³⁹
- 3.19 Local authorities reported letting 33 contracts through full procurement exercises in 2015-16, although 10 did not report any such exercises. In contrast, the responses we received suggested that around five times as many contracts had been extended. However, in some cases the procurement activity undertaken involved the rationalisation of a larger number of contracts into a smaller number of contracts following significant service reviews. Some local authorities were sensitive to the disruption caused and resource impact for providers in having to retender for their services, but they also highlighted that in their view European Union regulations made it a requirement for them to 'test the market'. In addition, some local authorities have made direct awards on different terms and conditions to existing providers following service reviews and with a view to delivering savings, or they have extended contracts to allow service reviews to be undertaken.
- 3.20 By way of an example, Cardiff Council explained to us that while, it has previously recommissioned some services through direct awards, its main approach was to tender for services. Its aims being to: comply with Welsh Government grant terms and conditions and legal and procurement advice; ensure best value for money through procurement; address under-utilisation of some services; optimise opportunities for economies of scale; address duplication across some services and rationalise the number of contracts.⁴⁰ The Council is in the middle of a three-year commissioning process and, in 2016-17, recommissioned its generic floating support through a full procurement process. The number of contracts reduced from 14 to two and the Council reports that it has achieved over £900,000 in savings, while being confident that service quality has been enhanced.
- 3.21 Local authorities provided us with further details about 74 extended contracts.⁴¹ Contract extensions ranged from four months to 48 months. The average contract extension was just under 19 months.

³⁹ We did not ask local authorities for information about contract extensions or procurements for other years. Therefore, we do not know whether the patterns we identified would have been reflected in other periods.

⁴⁰ As at May 2017, Cardiff Council provided Supporting People services under 35 contracts delivered by 27 third-sector organisations and registered social landlords. The Council provides some services directly, including: homeless hostels, community alarms, mobile warden services and services to clients with learning disabilities.

⁴¹ We asked councils for additional information about the five largest contracts. Not all local authorities extended up to five contracts while some extended to more than five contracts.

- 3.22 Of the 74 contract extensions, local authorities reported that 26 (35%) were extended even though there was not an extension provision in the original contract, akin therefore to a direct award (paragraph 3.15). We have not examined the detail of these contractual arrangements to determine whether they were, in practice, compliant with local procurement policies and wider procurement regulations. Local authorities informed us that their contract procedure rules allowed them to do this using contract exemption notices. Local authorities gave two main reasons for extending contracts without provision to do so:
- a local authorities were confident that the services provided were delivering value for money, and as such did not believe that a procurement exercise would bring any benefits. They told us that they had gained such assurance through service reviews and ongoing dialogue with the provider, which in some cases had already led to reduced costs. For example, during 2015-16 Flintshire County Council extended its contracts for fixed site services for young people and families with support needs. Officers told us they had completed tender exemption reports, had recently undertaken a full review of the projects and found that they were performing well, and that project costs had been reduced to within the benchmark costs set by the Council. Consequently, it was the Council's view that a full procurement exercise would risk disrupting the projects that were providing value for money.
 - b local authorities told us that they were extending the contracts until they were able to review, remodel and procure future services.

The Welsh Government has capped management charges at 10% due to its concerns about variable practice

- 3.23 The 2013 Programme guidance gave local authorities some information on how to estimate the costs of individual Supporting People services. The guidance included information about the average costs of some services at that time. It indicated that the Welsh Government would provide some additional benchmark data about management costs, such as office costs.
- 3.24 In 2015, the Welsh Government commissioned a review of Supporting People 'management charges' (paragraph 2.8 and Appendix 2). That review followed an initial survey in 2013 that indicated major variation in the nature and scale of expenditure termed as 'management charges' in Supporting People funded services across Wales. Part of the review's remit was to establish the definitions of management charges used by providers and local authorities. The review also assessed the proportion of Programme funds spent on management charges. In response to the review, the Welsh Government altered the grant terms and conditions so that management charges should not exceed 10% of the scheme costs, unless a reasonable explanation can be provided – known as the 'comply or explain' cap on management charges.

3.25 In the revised Programme guidance issued for consultation in May 2017, commentary on the costs of services is limited to high-level information about what should comprise a management charge. The draft guidance reiterates the 10% comply or explain cap on management charges. We found that local authorities use a range of different methods to calculate the cost of Supporting People services. For example, a small number of local authorities continue to use the tariff system⁴² that was a feature of the Programme pre-2012.

The Welsh Government has identified widespread variations in overall service costs, but further analysis is required to understand what these variations mean

3.26 The Welsh Government has analysed local authority spend plans to try to assess the extent of variation in the costs of Supporting People services. For each client category, it has identified the most costly per unit service provided, the least costly per unit service and the average per unit cost. It has also calculated the 'multiplier' – the number of times the cheapest service will go into the most expensive. This analysis has highlighted that there are substantial variations in the cost of services across Wales. Based on the 2015-16 spend plans, the two categories which saw the largest variation in the unit costs of services were as follows:

- a one local authority spent £357 per unit to provide services to address drug misuse whereas another spent £18,530 per unit, which is 52 times more; and
- b one local authority spent £392 per unit to provide services for those with a criminal offending history whereas another spent £11,700 per unit, which is 30 times more.

3.27 However, the Welsh Government's analysis does not factor in the type or duration of the support provided. It compares the costs of services that last for less than six months with the costs of services that last for more than 24 months. In addition, its analysis compares the costs of fixed services with the costs of floating services, when the latter tend to be less expensive. Looking at the extremes – the most and least costly services within a client category – may only indicate that some services are outliers.

3.28 We sought to undertake a more detailed analysis of the data. However, this was not possible, as the data collated by the Welsh Government does not contain sufficient information about the length of the services. The data is in three categories: services less than six months; services between six and 24 months and services of more than 24 months.

⁴² Previous projects were costed by using a fixed price which had been agreed as a fair cost for a particular type of project or level of accommodation being provided.

Welsh Government reviews have found variability in the overall quality of Programme management by local authorities and some issues with the eligibility of support provided for people with learning disabilities

Since April 2014, the Welsh Government has undertaken a series of local authority reviews that have, in some cases, highlighted concerns about the way the Programme was being run

- 3.29 Beginning in April 2014, the Welsh Government undertook a first round of review of all 22 local authorities to gain assurance that local authorities are using their allocation of Supporting People Programme Grant appropriately. The Welsh Government completed the first round reviews by December 2015 and has since partially completed a second round of reviews (Box 8).
- 3.30 The Welsh Government summarised the key messages from the first set of reviews. It identified variable performance across the piece with no good or poor areas of performance common to all local authorities. For core activities, such as contract specification and contract monitoring, performance varied considerably.
- 3.31 When examining contract monitoring arrangements, the Welsh Government expects to see:
- a a schedule of regular monitoring visits by local authorities to Supporting People services providers, broadly speaking, to ensure that the services are delivering in line with the contract requirements. The scheduling of visits will reflect a risk-based approach, using intelligence gathered by the local authority, such as from service reviews, outcome data and for the number of clients using the service.⁴³
 - b minutes of the meetings of the regular monitoring visits and a summary of issues discussed, actions raised and an update and record of actions completed since the last visit.

43 The Welsh Government expects contract monitoring visits to include an examination of: compliance with the contract; compliance with associated policies and guidelines, for example, the Programme guidance; quality of service; collection and use of outcomes and performance data; resource levels; staff training; the service user experience and complaints management. The June 2013 Programme guidance did not specify the frequency with which local authorities should carry out monitoring visits. However, the draft revised guidance specifies that monitoring should be carried out at least annually.

Box 8: Welsh Government reviews of delivery of the Programme by local authorities

The reviews have sought to validate both 'input' on spending on Supporting People and 'output' information about the number of people supported. In particular, the reviews have examined:

- local authority arrangements for procuring Supporting People services (including benchmarking of contract costs);
- local authority arrangements for monitoring contracts for Supporting People services; and
- how local authorities assessed the housing-related needs of their communities and made decisions about services based on those needs.

Each local authority was given one of three ratings:

- 11 were given 'full assurance', which meant that the review team felt that the Programme was being run and monitored effectively;
- seven were given 'partial assurance', which meant that the review team had some concerns on the running of the Programme; and
- four were given 'unsatisfactory assurance', which meant that the review team had significant concerns about the running of the Programme.

The Welsh Government issued action plans to all local authorities, although for the authorities rated with 'full assurance', the plans covered relatively minor administrative issues.

The Welsh Government is undertaking a second round of reviews to provide continued assurance and to consider whether local authorities are addressing the issues identified by the first round of reviews. As of February 2017, the Welsh Government had completed 13 second-round reviews, which included all the local authorities rated unsatisfactory or given partial assurance in their first review.

Of the 13 second-round reviews, five authorities were deemed to have improved, six received the same rating as they had done previously and two were deemed to have deteriorated. The overall results were that two received a rating of full assurance; nine received partial assurance; and two were unsatisfactory. The Welsh Government plans to complete the second-round reviews by the end of 2017-18. The Welsh Government plans to conduct further testing to follow up on specific concerns arising from the second-round reviews.

Source: Welsh Government

- 3.32 From the first round of reviews, the Welsh Government found that nine of the 22 local authorities had insufficient evidence on file to show that they were monitoring contracts appropriately. In three of these nine reports, the Welsh Government specifically identified limited staff resources as a factor in the weaknesses in contract monitoring. However, Welsh Government officials have indicated to us that, in most cases, any weaknesses in contract monitoring may be linked to the limited resources in those Supporting People teams. The risks of poor contract monitoring by local authorities include failing to identify services which are not delivering the intended benefits or where providers are not managing the Programme well. For example, if providers are not collecting the required outcomes data.
- 3.33 From its second round of reviews, the Welsh Government identified that four of the nine local authorities that had weaknesses in contract monitoring were improving their arrangements. Some of the other local authorities concerned have indicated to us that they have put improvements in place since the second-round reviews.

The reviews undertaken by the Welsh Government, along with some more detailed work in two regions, have highlighted some issues with the eligibility of support for people with learning disabilities and differences in the level of support provided

- 3.34 In its recent reviews, the Welsh Government identified that some of the support funded through the Programme for people with learning disabilities was ineligible, as it was not housing-related support. From the Welsh Government's perspective, this resulted in the risk that Programme funding, designed to address housing-related support needs, is used instead to subsidise health and social care activity.
- 3.35 Two regions (North Wales and Gwent) have undertaken their own more detailed reviews of learning disabilities services ([Appendix 3, Box A1](#)). The North Wales review identified a number of instances where services funded by the Programme were ineligible. In response, the North Wales Collaborative Committee requires its constituent local authorities to report on their progress towards ensuring that all services for people with learning disabilities funded through the Programme provide only housing-related support. The Committee also established a sub-group to look at a range of issues related to this client group, such as the scope for using telecare to replace or supplement a support worker.

- 3.36 The Gwent review identified a range of concerns with learning disability provision funded through the Programme. The issues identified included some instances where there was the risk that Programme funding was providing care rather than housing-related support. The review made eight recommendations, including that by March 2018 all support to this client group should be based on an assessment of an individual's housing-related support needs. The Regional Collaborative Committee was tasked with overseeing progress towards this objective.
- 3.37 The work undertaken in Gwent and North Wales shows that there are some wide variations in the hourly support for people with learning disabilities that local authorities will fund through the Programme. As part of a phased Programme of completing individual housing related support assessments, in 2015-16, Newport City Council, decided to limit Supporting People funded support to eight hours per week for people with learning disabilities or enduring mental health problems. Denbighshire County Council has indicated to us that it works to an assumption of an average of 10 hours per week of support for learning disability clients, but with the amount of support informed by a needs assessment. A person with learning disabilities living in Conwy or Flintshire can receive up to 21 hours of support from the Supporting People Programme.⁴⁴ However, it does not necessarily follow that a person with learning disabilities in one area receives more or less support than they would elsewhere. The total package of support might be the same, but the funding to provide that support might come from different sources.
- 3.38 We are unable to form a definite judgment about whether such variation in provision exists across other client groups. However, the available data does suggest a degree of variation in the provision for other groups. For example, we identified that 16 of 22 local authorities provided Supporting People services for the client group 'families with support needs' in 2016-17. Fourteen local authorities provided support to people with physical or sensory disabilities through the Programme. While only three local authorities provided Programme support to people with developmental disorders such as autism. It may be the case that the needs of individuals are met through other funding sources. However, these differences emphasise the importance of effective scrutiny of needs mapping to ensure any lack of provision through the Programme can be explained.

⁴⁴ Flintshire County Council indicated that these arrangements are currently under review to ensure that all spend is eligible.

Appendices



Appendix 1 – Audit methods

Document review and data analysis

We reviewed a wide range of documentation including:

- The Supporting People Programme guidance published in 2013
- Commissioned reviews of various parts of the Programme
- Local authority reviews carried out by Welsh Government officials
- Regional Collaborative Committee annual reviews
- Regional Collaborative Committee commissioning plans
- Regional Collaborative Committee spend plans
- Spend plans and outcomes analysis conducted by Welsh Government officials
- Ministerial briefings
- Minutes from meetings of Supporting People National Advisory Board and the various sub groups

Interviews

We conducted telephone interviews with officers with overall lead responsibility for the Supporting People Programme in each of the 22 local authorities in Wales. We also interviewed Regional Collaborative Committee chairs and vice chairs and each of the Regional Development Co-ordinators.

We have discussed the administration of the Programme with Welsh Government officials. Additionally, we undertook a range of other interviews with other people with involvement in the Programme including the Welsh Local Government Association, Housing Leadership Cymru and organisations who provide Supporting People services. We also held discussions with key stakeholder groups, the Supporting People National Advisory Board and the National Supported Housing and Provider Network.

Survey of local authority procurement activity

We surveyed the 22 local authorities to develop our understanding of the way in which they procure and fund Supporting People services. We collected information about contracts extended and full procurement exercises carried out during 2015-16. We also collected information about Supporting People Revenue Grant schemes that local authorities inherited.

Appendix 2 – Previous reviews and research on the Supporting People Programme

In August 2012, the Welsh Government introduced a new set of Programme arrangements to implement the recommendations of the 2010 Aylward Review that had been commissioned by Jocelyn Davies, the then Deputy Minister for Housing and Regeneration. This Appendix describes the Aylward Review and subsequent reviews and research into the Programme.

Since the start of the third Assembly in May 2011, a number of Ministers have been responsible for the Programme:

- Huw Lewis (as Minister for Housing, Regeneration and Heritage): May 2011 – May 2013
- Carl Sargeant (as Minister for Local Government and Communities): May 2013 – September 2014
- Lesley Griffiths (as Minister for Communities): September 2014 – June 2016
- Carl Sargeant (as Cabinet Secretary for Communities and Children): June 2016 – present.

Review of the Supporting People Programme in Wales – the ‘Aylward Review’ (2010)

In 2010, the Welsh Government commissioned Sir Mansel Aylward to undertake a review of the Programme. The purpose of the review was to provide the then Deputy Minister of Housing, Jocelyn Davies, with advice on the delivery arrangements and to make recommendations on how these could be strengthened.

The ‘Aylward Review’ made 25 recommendations regarding the allocation, governance and delivery of Programme funding. Unlike in England and Scotland, the Review advocated the continued ring fencing of the grant outside of the Revenue Support Grant for local authorities. Other key recommendations included unifying what were then two separate funding streams into a single grant, proposals for a new funding formula and a revised governance structure. That revised structure included the establishment of a Supporting People National Advisory Board to provide independent advice and information.

The Review placed a strong emphasis on the need for a collaborative approach across local authorities, housing and support providers, health services, probation and other relevant organisations with an ‘abiding emphasis on co-design and co-production’. The review advocated the establishment of multi-sectoral collaborative committees within each local authority boundary whose remit should include the planning, commissioning, procuring and

monitoring of services. Acknowledging the potential of regional working, in particular the approach in Gwent and North Wales, the Review suggested that these local collaborative committees could act as an interim measure in progressing towards cross-boundary arrangements.

Three work-streams, reporting to a National Advisory Board, undertook the implementation of the review recommendations. The work-streams were convened under the themes of finance, governance and quality.

Design for Governance (2013)

In 2013, the Welsh Government commissioned UK Research and Consultancy Services Ltd to produce a range of long-term Regional Collaborative Committee governance options. The review sought to address the challenges that had been identified around a collaborative un-constituted body making spending decisions in relation to a grant administered by local authorities. The review developed three options:

- Option one – a stronger local government focus, coupled with a statutory duty to address ‘Supporting People’ needs
- Option two – place the Regional Collaborative Committees on a statutory footing and/or become legal entities
- Option three – develop a combination of Regional Collaborative Committees established by a Memorandum of Understanding but linked to legally binding grant conditions on local authorities which confer real authority and leverage on the Regional Collaborative Committees

Option three was favoured as it enabled Supporting People funding to remain with local government but with legal conditions that would require local authorities to spend it in accordance with the strategic plan developed by the Regional Collaborative Committee. A Memorandum of Understanding would establish the Regional Collaborative Committee’s roles and responsibilities, in particular the underlying principle of the Regional Collaborative Committee being a collaborative, multi-sectoral body.

Independent Review of the Supporting People Programme Transition Year (2014)

In association with Shelter Cymru, Miller Research Ltd were commissioned by the Welsh Government to undertake an independent review of the Supporting People Programme following its transition to new structures in 2012. The aim of the research was to review the various structures underpinning the Supporting People Programme since the implementation of the re-launched Programme in August 2012 and to make recommendations regarding their future.

The main findings of the review were:

- understanding of the role of the Supporting People National Advisory Board and the engagement of some of its members was variable;
- perceptions that the Supporting People National Advisory Board had become excessively involved in the operational detail of the Programme rather than providing leadership;
- the role and remit of the Programme's Steering Board was unclear with suggestions that it was duplicating many of the discussions held at the Supporting People National Advisory Board;
- although seen as important, there was a lack of clarity regarding the membership, outputs, timescales and accountability or the workstreams;
- there was a lack of clarity over Regional Collaborative Committees' function and expectations of their performance;
- Regional Collaborative Committees were perceived to lack power or authority and there was a lack of understanding of the Programme to scrutinise and challenge;
- Regional Collaborative Committees had created increased bureaucracy and workload for members;
- regional commissioning had been varied and influenced by historical arrangements for the Programme in each region, with more activity in areas with a tradition of regional working;
- most Regional Collaborative Committees had been involved in developing consistent processes and back office functions rather than developing regional services;
- although seen as integral, the Regional Development Co-ordinator role was varied and required further clarity; and
- ensuring service user engagement was a challenge.

The review made a number of recommendations on how the Programme could be improved based on these findings in the following areas:

- Structures
- Strategic vision
- Steering Board and Workstreams futures
- Opportunities for increasing Regional Collaborative Committee influence
- Cross-policy agenda linkages
- Membership and Chairing of the Regional Collaborative Committees
- Regional Development Co-ordinator role and function
- Service user engagement

Supporting People Programme Management Charges within Supporting People Provision (2015)

The Welsh Government commissioned UK Research and Consultancy Services Ltd to analyse the use of the Supporting People Programme Grant. This review followed an initial survey in 2013, which indicated major variation in the nature and scale of expenditure termed as 'management charges' in Supporting People funded services across Wales. The aim was to understand how charges were being levied, what they consisted of, whether this was in line with other grant funded schemes, and the extent to which they were consistent with Welsh Government grants management policy.

The main findings of the report were:

- the average amount levied for management charges in Supporting People projects in Wales was approximately 10 to 15% of total project funding;
- project charges ranged from 1.4% to 37% at the extreme ends of the spectrum;
- an estimated £12 million to £18 million of expenditure is spent on management charges annually;
- there is a wide variety of practice in relation to management charges and a general lack of clarity with no consistent agreement on what kind of expenditure a 'management charge' should cover;
- very few authorities have defined policies for addressing management charges and many appear to tackle the issue in an ad hoc fashion;

- there is some evidence that approaches to management charges are changing as a result of the recent Programme funding cuts; and
- there are very few surpluses generated from the grant funding, either through high management charges or otherwise.

The report recommended that:

- a series of design principles for the management charges regime in the Programme be developed;
- a definition of what should be included in management charges be devised, taking into account previous work on this subject;
- the Welsh Government set a maximum cap limit on management charges of no more than 10% of the net grant to a provider;
- the cap should operate on the principle of 'comply or explain' so that it combines transparency and clarity with a degree of flexibility; and
- the monitoring and control of management charges should utilise existing arrangements as far as possible.

Supporting People: Older Peoples Services (2016)

The Aylward Review highlighted a concern that across Wales people over the age of 55 (in some cases 50) living in sheltered housing, were automatically receiving or entitled to receive Supporting People services regardless of their level of need. This was resulting in people with high needs who did not live in sheltered housing not receiving the appropriate support. The review recommended that services for older people funded by the Supporting People Programme should be available to anyone, irrespective of where they lived.

In order to progress this recommendation, the Welsh Government commissioned a research study conducted by a PhD student, which aimed to:

- explore how services were provided for older people through the Supporting People Programme Grant in each of the 22 local authority areas;
- assess whether housing-related support services had moved from being based on tenure to being based on need; and
- examine what else the Welsh Government could do to promote the effective move from tenure to needs-based services.

The study concluded that considerable amounts of dedicated Supporting People Programme Grant funded services for older people were still tenure based and progress was slow and inconsistent. It also highlighted there was confusion about what the recommendation meant and the actions required in order to meet it. The study identified a misplaced belief in some areas that the recommendation had already been implemented, along with resource challenges in being able to provide services for all eligible older people in some rural and remote areas.

The study recommended that Regional Collaborative Committees and Local Authorities work with stakeholders to develop timetables for implementation of tenure-neutral services. It also recommended the monitoring of progress on a more consistent basis and that Regional Collaborative Committee Annual Reports should contain a specific section updating the Welsh Government on progress. Among some of its other recommendations, the study also suggested that it would be advisable for local authorities and providers to establish a working group to explore models, which could work well in rural and semi-rural areas.

Supporting People Data Linking Feasibility Project (2016)

This feasibility study was jointly funded by the UK Economic and Social Research Council and Welsh Government.

The overall aim of the project was to explore the contribution data linking could make to the evaluation of the Supporting People Programme. The study concluded that although various challenges exist a full quantitative evaluation was possible using data linking.

The study recommended that the Welsh Government should provide funding for a full quantitative data linking evaluation study of the Supporting People Programme across all local authorities in Wales using linked routine administrative data. The study also recommended that the Welsh Government should consider commissioning a parallel qualitative study to help provide further explanations for any observed patterns in the quantitative data along with the establishment of a 'cost offset' model to enable net benefits of the Programme to be estimated. In order to provide the necessary standardised dataset to allow data linking to take place, the study recommended including additional data requirements in the Supporting People Outcomes data spreadsheet that was in the process of being redesigned. The study also recommended making it an obligation to share this data through the terms and conditions for the Supporting People grant.

Appendix 3 – Examples of regional approaches to core Programme management processes

During our fieldwork we gathered evidence about collaborative working within the regions. We found relatively little evidence of genuine regional projects (Box 4 on page 29). However, we did identify a greater number of examples where common approaches to core processes and service reviews have been developed (Box A1 below).

Box A1: Examples of regional working to develop common approaches to core processes and joint reviews

North Wales Regional Collaborative Committee

- Conwy County Borough Council collates and manages outcomes data and returns to the Welsh Government for all six of the local authorities in North Wales.
- The North Wales Regional Collaborative Committee has produced a booklet describing the impacts of the Programme on individual lives.
- Denbighshire County Council and Flintshire County Council have carried out joint reviews of services.
- A sub-regional partnership agreement between Denbighshire County Council, Flintshire County Council and Wrexham County Borough Council to deliver the Syrian Resettlement Programme in these locations.
- The North Wales Regional Collaborative Committee agreed a series of actions to be taken across the constituent local authorities, including service reviews, to ensure that by 31 March 2016 all new entries to older people's services are tenure neutral, and that by 31 March 2017 all services for older people funded by the Programme are tenure neutral.
- The Committee also established a sub group to look at learning disabilities services funded through the Programme. The Group's objectives were:
 - to look at the current funding of learning disability services and assess whether the services funded are eligible services;
 - analyse how current learning disability services link to the homelessness prevention and tackling poverty agenda; and
 - learn best practice from each authority.
- The RCC sub group's July 2016 report made three recommendations, one of which was to carry out further work on learning disability services funded through the Programme in North Wales. The Regional Collaborative Committee accepted the recommendations.

Box A1: Examples of regional working to develop common approaches to core processes and joint reviews

Gwent Regional Collaborative Committee

- The Gwent Regional Collaborative Committee has produced a booklet describing the impacts of the Programme on individual lives.
- The Gwent Regional Collaborative Committee established a Task and Finish group to provide it 'with an overview of the provision of supporting housing and housing related support services across the region for people with Learning Disabilities'. In early 2016-17, the Regional Collaborative Committee accepted all the group's recommendations, as did the social services departments of the relevant local authorities.
- The 2014-15 work programme for the Gwent Regional Collaborative Committee prioritised scrutiny of older people's services provided across the region, and set the deadline that by the end of 2016 all services for older people should be tenure neutral in line with the 2010 Aylward Review recommendation. However, only two of the five local authorities have met this deadline, but it is anticipated that they all will have done so by April 2018.

Mid and West Wales Regional Collaborative Committee

- The Mid and West Wales Regional Collaborative Committee has developed a standardised online data collection tool, and the constituent local authorities share knowledge and assist each other with the process of collating information and formatting.

Cwm Taf Regional Collaborative Committee

- The two constituent local authorities of the Cwm Taf Regional Collaborative Committee have used the same approach to conduct strategic relevance reviews of services. Also, Cwm Taf Regional Collaborative Committee has developed regional outcomes guidance and operates a regional Service User Involvement Planning Group.
- Cwm Taf Regional Collaborative Committee established an Older Person's Group on a task and finish basis to manage and monitor:
 - the process of reconfiguring older person's services across Cwm Taf so that they are based on need rather than tenure; and
 - the development of a consistent approach to commissioning older people's services.

Box A1: Examples of regional working to develop common approaches to core processes and joint reviews

The Vale and Cardiff Regional Collaborative Committee

- City of Cardiff Council and the Vale of Glamorgan Council have an in-principle agreement to carry out joint reviews of services, but for a range of reasons have yet to complete any such joint reviews of services. In addition, these two local authorities have jointly developed an approach to service user engagement, known as the Vale and Cardiff Regions Participation and Involvement Framework.
- The Vale and Cardiff Regional Collaborative Committee has established a commissioning sub group to identify and tackle barriers to the regional commissioning of services. There is ongoing discussion about jointly commissioning domestic abuse services.

Western Bay Regional Collaborative Committee

- The Committee is developing a regional approach to needs analysis, priority setting and horizon scanning, which the Committee envisages will act as the foundation for future delivery of regional services.
- The constituent authorities of the Western Bay Regional Collaborative Committee use a single system of data collection to monitor contracts.

Appendix 4 – Local authority Supporting People allocations 2013-14 to 2016-17

Figure A1 below shows the amount of funding that the Welsh Government allocated to each local authority for the Programme between 2013-14 and 2016-17, in total cash terms. We have been unable to collect accurate figures for 2012-13 from the Welsh Government. This was the year in which the Supporting People Grant and Supporting People Revenue Grant merged into the new Supporting People Programme Grant.

The total local authority allocations do not amount exactly to the overall Programme budget as it is top sliced to fund additional work in support of the Programme. For instance, in 2016-17 around £800,000 was top sliced from the overall Programme budget of £124.5 million.

Figure 5 in the main body of the report compares local authorities' actual 2016-17 allocation to what they would otherwise have received, had the Welsh Government continued to implement the funding formula that it applied in 2012-13 and 2013-14 – but then suspended. The funding formula was intended to support the redistribution of Programme funding to geographical areas of greatest need.

Figure A1: Local authority funding allocations from the Supporting People Programme, 2013-14 to 2016-17

Local authority	2013-14 (£ millions)	2014-15 (£ millions)	2015-16, 2016-17 and 2017-18 (£ millions each year)
Isle of Anglesey	3.05	2.88	2.64
Gwynedd	5.92	5.61	5.04
Conwy	7.57	7.18	6.45
Denbighshire	6.44	6.11	5.48
Flintshire	6.82	6.46	5.80
Wrexham	5.84	5.53	4.98
Powys	6.03	5.72	5.13
Ceredigion	3.46	3.27	2.94
Pembrokeshire	2.78	2.87	2.71

Local authority	2013-14 (£ millions)	2014-15 (£ millions)	2015-16, 2016-17 and 2017-18 (£ millions each year)
Carmarthenshire	6.77	6.86	6.49
Swansea	14.62	14.61	13.81
Neath Port Talbot	4.93	5.07	4.79
Bridgend	6.10	6.15	5.81
Vale of Glamorgan	3.65	3.68	3.46
Rhondda Cynon Taf	9.44	9.59	9.05
Merthyr Tydfil	2.09	2.24	2.12
Caerphilly	6.54	6.59	6.23
Blaenau Gwent	2.61	2.69	2.55
Torfaen	3.65	3.63	3.43
Monmouthshire	2.17	2.15	2.03
Newport	6.67	6.73	6.36
Cardiff	19.07	18.11	16.26
Total	136.33	133.80	123.69

Source: Wales Audit Office analysis of Welsh Government data

Appendix 5 – Changes in planned spend across client categories 2013-14 to 2016-17

Although the new Supporting People Programme was launched in 2012-13, the Welsh Government has only been able to provide detailed spend plans for 2013-14 onwards. **Figure A2** below shows the changes in spend across client categories between 2013-14 and 2016-17. **Figure 4** in the main body of the report shows the client categories with the largest reduction in cash terms between 2013-14 and 2016-17.

There are some minor differences between the total expenditure figures reported from the spend plans for 2013-14 and 2014-15 when compared with the actual local authority allocations (**Appendix 4**).

Figure A2: Supporting People Programme spend per client category between 2013-14 and 2016-17

Client category	2013-14 (£ millions)	2014-15 (£ millions)	2015-16 (£ millions)	2016-17 (£ millions)
Alarm services (including in sheltered/ extra care)	4.17	3.66	2.44	2.28
Generic floating support to prevent homelessness	21.30	14.11	14.00	15.94
People with chronic illnesses	0.18	0.19	0.17	0.13
Young people who are care leavers	0.84	0.94	0.75	0.68
Single people with support needs (25 to 54)	5.31	5.07	5.65	4.29
People with physical and/or sensory disabilities	1.84	1.71	1.45	1.51
People with learning disabilities	36.43	35.59	31.74	30.57
People with criminal offending history	2.89	2.82	2.63	2.44

Client category	2013-14 (£ millions)	2014-15 (£ millions)	2015-16 (£ millions)	2016-17 (£ millions)
People with substance misuse issues (drugs and volatile substances)	4.64	4.77	4.43	3.96
Young people with support needs (16 to 24)	14.81	14.62	13.46	13.16
Women experiencing domestic abuse	9.99	9.83	9.08	9.04
Families with support needs	4.64	4.48	4.12	4.23
People with mental health issues	14.55	14.45	13.72	13.78
Single parent families with support needs	1.11	1.06	0.92	1.07
People over 55 years of age with support needs (exclusive of alarm services)	11.90	11.96	11.23	11.65
People with substance misuse issues (alcohol)	1.33	1.42	1.40	1.51
Men experiencing domestic abuse	0.21	0.21	0.25	0.29
People with refugee status	0.31	0.29	0.29	0.44
People with developmental disorders	0.14	0.25	0.18	0.20
Expenditure which does not directly link to the spend plan categories ¹	n/a	6.61	5.68	6.43
Total	136.68	134.13	123.69	123.69

Note

¹ This category was only introduced in 2014-15.

Source: Wales Audit Office analysis of Welsh Government data

Appendix 6 – Case study examples of the impact of the Supporting People Programme in Gwent and North Wales

Both Gwent and North Wales Regional Collaborative Committees provided us with examples of case studies where a range of positive outcomes had been reported for people receiving support through the Programme. Both Committees have published reports aiming to highlight not only the social and human impact of the Programme, but also the economic impact and cost effectiveness of the Programme. This has been done by comparing the costs of individual supporting people interventions with more generic costs to public services of a wide range of incidents such as dealing with a crime incident, ambulance callouts, a homelessness application or a housing eviction for instance. We have included in **Box A2** below a selection of the case studies provided to us.

Box A2: Case studies providing examples of the impact of the Programme on individuals

Older people case study

Region: North Wales

Situation: After Gladys's partner passed away she became very isolated and lonely. Gladys moved into a sheltered housing scheme as she wanted to feel part of the community and improve her health and wellbeing.

Outcomes: Gladys's life has changed significantly since being encouraged by the independent living co-ordinator to be involved in activities and clubs. This has included her taking part in a digital inclusion and photography course resulting in her winning an award and being interviewed on BBC Radio Wales about her positive experience.

Supporting People costs: £11.10 per week

Domestic abuse case study

Region: Gwent

Situation: Fiona had been a victim of domestic abuse and required support with life skills including cooking and shopping on a budget, applying for and managing a tenancy, maintaining a home, claiming benefits and parenting issues.

Outcomes: Fiona has been living independently for almost a year and no longer has any Social Service involvement, She is on the housing waiting list and has almost completed her GCSEs in Maths and English. Fiona intends to carry on with her education and is applying for other courses and voluntary work.

Supporting People costs: £18,444 for six months support

Box A2: Case studies providing examples of the impact of the Programme on individuals

Substance misuse case study

Region: North Wales

Situation: Tracey has a history of long-term drug abuse and is working towards recovery from heroin addiction and gaining full-time custody of her children.

Outcomes: Tracey has demonstrated that she is working towards independent living by attending weekly support sessions, paying personal rent and abiding by the scheme's rules. Her physical health has improved and Tracey remains in contact with all her children and sees them on weekends.

Supporting People costs: £218 per week

Care leaver case study

Region: Gwent

Situation: Megan is a care leaver who had become homeless and at risk of sexual exploitation. Megan was lacking independent living skills and had a history of self-harm, anxiety and depression, low self-esteem and a lack of motivation.

Outcomes: Megan moved into a supporting housing project and received support to develop her budgeting and independent living skills. Her self-care, self-esteem, confidence and motivation have all improved and Megan is currently waiting to be referred to the move-on panel, which will enable her to secure her own tenancy.

Supporting People costs: £44,404 in total

Generic floating support case study

Region: North Wales

Situation: Linda had a history of personal problems in childhood leading to time spent in care homes and abusive relationships. Linda had developed a serious problem with hoarding and was at risk of eviction due to the condition of her property.

Outcomes: After receiving floating support, repossession proceedings were successfully avoided and Linda is now managing her accommodation very well.

Supporting People costs: £1,040

Mental health case study

Region: Gwent

Situation: Clive has paranoid schizophrenia and needed support to manage his tenancy, correspondence and daily living. He also required support to address his alcohol and drug abuse and to improve his overall physical and mental health.

Outcomes: After receiving support Clive has been able to maintain his tenancy and engage with staff and services. He is working towards reducing his substance misuse and is focused on maintaining his physical and mental health.

Supporting People costs: £120 per week ongoing

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Education and Public Services Group



Llywodraeth Cymru
Welsh Government

Your Ref: PA230/MM/hcj

Mr Huw Vaughan Thomas
Auditor General for Wales
Wales Audit Office

20 September 2017

Dear Huw,

WALES AUDIT OFFICE REPORT: THE WELSH GOVERNMENT'S SUPPORTING PEOPLE PROGRAMME

Following my earlier letter regarding the Supporting People Programme audit report, I am now pleased to enclose an update, which formally confirms our acceptance / acceptance in principle of the recommendations; provides an anticipated completion date for the recommendations; and reports on the progress made to date.

This information is contained within Annex A of this letter.

Yours sincerely

Owen Evans

cc Cabinet and Plenary Mailbox
The PAC Chair
WG CGU Mailbox
Matthew Mortlock, Director Performance Audit



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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Annex A

Recommendation One

In recent years, the Welsh Government has provided local authorities with annual budget allocations for the financial year ahead, without providing any indicative budgets for future years. Reflecting the recommendations that we have made in some of our previous reports, and while recognising the uncertainties facing the Welsh Government's own revenues, **we recommend that:**

- **the Welsh Government re-introduce indicative three-year Supporting People funding allocations at the earliest opportunity to assist local authorities in their planning; and**
- **at the same time, consider the merits of moving to three-year annual rolling local authority spend plans, to assist local authorities in planning services and to allow greater scrutiny by Regional Collaborative Committees.**

Response: Accept in Principle

Completion Date: Ongoing

In considering and setting Welsh Government budgets our aim is to provide a longer indication of budgets wherever possible to help our partner organisations have greater certainty in planning. However, this needs to be balanced with our ability to provide realistic and sensible planning assumptions due to the uncertainty of the funding implications of UK Government decisions. We will, where possible though seek to provide as much certainty as possible, an example recently being that whilst in 2017-18 we were only able to lay a one-year revenue budget we were able to provide greater clarity on capital budgets supported the publication of a four year capital budget.

As we consider future Welsh Government budgets, we will continue to work with local government to provide the available indicative information to inform their forward financial planning. Such plans inevitably need to reflect a range of scenarios for income and expenditure and fluctuations in service demand and provision.

Recommendation Two

The Welsh Government is proposing greater regional planning and delivery of services as part of its reforming local government policy. However, the Supporting People Regional Collaborative Committees have struggled to deliver at the scale and pace the Welsh Government would have liked. **We recommend that the Welsh Government:**

- **identify and apply lessons learned from the experience of the Regional Collaborative Committees to inform its proposals for local government reform; and**
- **review whether the Regional Collaborative Committee arrangements remain fit for purpose in the context of other collaborative governance arrangements, such as the new statutory public service boards and its wider plans for regional working in local government.**

Response: Accept

Completion Date: September 2018

Welsh Government consulted on proposals for Local Government Reform earlier this year. Work is now focusing on developing detailed proposals for legislation in consultation with Local Government. It was always our intention, as I'm sure you will appreciate, to ensure we learn the lessons from the Regional Collaborative Committees to inform the development of the proposals and their practical implementation so we are fully supportive of your recommendation.

Welsh Government reviewed the Regional Collaborative Committee arrangements as part of the consultation on revised guidance which ended on 4th August 2017. Once the final guidance document is published it will place the Regional Collaborative Committees within the governance structure of Public Service Boards.

We will continue to reflect on the lessons learned from the Regional Collaborative Committees particularly as part of the Supported Accommodation Review and we anticipate that progress will be progressive. By September 2018 we will have developed a clearer position in relation to the Supported Accommodation Review and a regional way forward will be informed by lessons learned from the Regional Collaborative Committees.

Recommendation Three

The Supporting People National Advisory Board has recognised the need for a new formula to help redistribute Programme funds to geographical areas of greatest need. The Welsh Government is also consulting on the strategic objectives for the Programme. **We recommend that, once it has finalised the new strategic objectives for the Programme, the Welsh Government prioritise developing a new funding formula to redistribute funding in a way that most effectively delivers those objectives. In doing so, we recommend the Welsh Government give consideration to any transitional arrangements and wider policy developments that may impact on the Programme.**

Response: Accept
Completion Date: April 2020

The Welsh Government accepts the reports finding that now is the time to update the formula and clearly strategic objectives must be set before this is considered. Any redistribution as you suggest needs to consider transitional arrangements and the impact on individual local authorities to ensure that the end service provision is managed as efficiently and sympathetically as we move to the new model.. Development will involve the full range of Programme stakeholders.

It is also important that distribution issues within the Supporting People Programme allocation are considered in the context of ongoing work around the alignment of budgets and the Wellbeing of Future Generations focus on preventative services as well as the increasing budgetary flexibility we are seeking to offer Local Authorities.

Recommendation Four

The Welsh Government's current and draft revised guidance on the procurement of Supporting People services is potentially misleading as it implies that retendering need only take place where a service review has found the service to be deficient. **We recommend that:**

- a. **the Welsh Government's on-going reviews of local authorities' management of the Programme should examine whether contracts are being extended in compliance with Public Contract Regulations.**

- b. in revising its Programme guidance, the Welsh Government redraft its advice on contract procurement to avoid the scope for any misinterpretation about when to retender for services, and to clearly articulate the rules around contract extensions.**

Response: Accept

Completion Date: December 2017

In relation to the specific recommendations:

- a. Welsh Government Local Authority Review templates have been updated to reflect questions on contract extension in accordance with Public Contract Regulations. These will be used for all future local authority reviews.
- b. The Supporting People Programme draft guidance will be updated to reflect this recommendation prior to publication.

Recommendation Five

There have been a number of notable policy changes in recent years that affect the Programme. However, we have identified concerns about the scale of change and the way it has been communicated. In addition, other developments will have an impact on the Programme, for example, the Welsh Government's plans for local government reform and UK government reform of housing benefit. **We recommend that the Welsh Government should identify and clearly communicate the implications of such reforms for the Programme.**

Response: Accept

Completion Date: Ongoing

We have initiated a large scale exercise to co-produce policy development in order to address the challenges posed by the Department of Work and Pensions Supported Accommodation Review. We will build on this, working with the sector via the Supporting People National Advisory Board to consider what additional improvements can be made to the current mechanisms for communication to ensure the Welsh Government's programme is widely understood.

Recommendation Six

While the Welsh Government has identified that there are widespread variations in overall service costs, further analysis is required to understand the reasons for that variation. **We recommend that the Welsh Government work with local authorities to examine in more detail whether there are significant variations in the costs of delivering Supporting People services of a similar type and duration.**

Response: Accept

Completion Date: April 2019

Using Spend Plan information from 2018/19 and 2019/20 Welsh Government will work with the Regional Collaborative Committees to develop an understanding of service costs and how these vary across Local Authorities. Each Regional Collaborative Committee will be provided with a cost breakdown for each client category within their region and a

comparison to a Wales average cost for the same client category. The intention will clearly be to introduce better benchmarking across the services provided to ensure that value for money can be assured.

Recommendation Seven

There remain concerns about data quality in the current Outcomes Framework, but with revised data collection arrangements being proposed. **We recommend that the Welsh Government work with its partners to ensure that, once introduced, any new arrangements are clearly understood by providers and embedded as part of contractual arrangements.**

Response: Accept
Completion Date: April 2020

Any new outcomes framework will be developed with the sector via consultation with stakeholders. Welsh Government will engage with the Supporting People Information Network (SPIN) and Cymorth Cymru to introduce and prepare commissioners and providers for future changes to data collection. In addition we will update Welsh Government grant terms and conditions to reflect these changes to Local Authorities. We will work with Local Authorities so changes to data collection are reflected in their own commissioning arrangements with service providers. Welsh Government will test this has been embedded via the Local Authority Review process.

Recommendation Eight

Welsh Government reviews, and more detailed work at a regional level by two of the Regional Collaborative Committees, have highlighted some issues with the eligibility of support for people with learning disabilities and differences in the level of support provided. **We recommend that the Welsh Government encourage all Regional Collaborative Committees to review arrangements for support for people with learning disabilities through the Programme and work with the committees to manage any potential negative consequences for service provision.**

Response: Accept
Completion Date: March 2019

Welsh Government will work with Regional Collaborative Committees to commit to reviewing Learning Development services by the end of 2018/19, with the view to implementing any changes by March 2022. Regional Collaborative Committees (RCCs) will be asked to update the Supporting People National Advisory Board (SPNAB) and Welsh Government as part of the Annual Review process.

Concise Minutes – Public Accounts Committee

Meeting Venue:

Committee Room 4 – Tŷ Hywel

Meeting date: Monday, 17 July 2017

Meeting time: 13.32 – 16.01

Private

Attendance

Category	Names
Assembly Members:	Nick Ramsay AM (Chair) Mohammad Asghar (Oscar) AM Neil Hamilton AM Vikki Howells AM Neil McEvoy AM Rhianon Passmore AM
Witnesses:	Professor Donald Forrester, Cascade Professor Sally Holland, Children’s Commissioner for Wales Sean O’Neill, Children in Wales Professor Paul Rees, Swansea University
Wales Audit Office:	Huw Vaughan Thomas – Auditor General for Wales John Herniman Matthew Mortlock
Committee Staff:	Fay Bowen (Clerk)



	Meriel Singleton (Second Clerk) Claire Griffiths (Deputy Clerk) Hywel Dafydd (Researcher) Katie Wyatt (Legal Adviser)
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1 Introductions, apologies, substitutions and declarations of interest

- 1.1 The Chair welcomed the Members to Committee.
- 1.2 There were no apologies.

2 Paper(s) to note

2.1 The papers were noted.

2.1 **Hospital Catering and Patient Nutrition: Letter from the Welsh Government (6 July 2017)**

2.2 **Implementation of the Wales Act 2017: Letter from the Llywydd (11 July 2017)**

3 Medicines Management: Reports from Stakeholder Event

- 3.1 The papers were noted.
- 3.2 Members agreed to gather further evidence in the autumn term.

4 Auditor General for Wales Report(s): Update on forthcoming reports

4.1 The Auditor General for Wales updated Committee on a report he had published today (17 July) and a further one expected to be published by the end of the month.

5 Looked after Children: Stakeholder Event

5.1 Members discussed the forthcoming Looked After Children inquiry with stakeholders and agreed to start the inquiry by looking at what is being spent on children in care, how the resources are allocated and the outcomes.

Huw Morris
Director, Skills, Higher Education and Lifelong Learning
Cyfarwyddwr, Sgiliau, Addysg Uwch a Dysgu Gydol Oes



Llywodraeth Cymru
Welsh Government

Mr Nick Ramsey AM
Chair of Public Accounts Committee

Date: 18 July 2017

Dear Nick

Response to Action Points recorded at the July 3rd PAC meeting about the AGW report on the Welsh Government oversight of Further Education institutions' finances and delivery.

There were a number of action points that were recorded at the recent PAC committee that I am now pleased to be able to share the responses with you at Annex A to this letter.

Yours Sincerely

Huw Morris
Group Director SHELL

c.c Cabinet and Plenary Mailbox
The PAC Chair
WG CGU Mailbox



Action Point 1

Proportion of budget allocation spent on Welsh language and English language in the FE sector

Due to the manner in which we fund programmes of learning it is not possible to identify a budgetary split between Welsh language and English Language provision as in many cases the programme is contains both some Welsh and some English Language teaching.

Information, available on statswales, shows that at an activity level a total of 7.8% of all activities undertaken include Welsh and Bilingual Learning.

To support the provision of Welsh Language provision colleges are given uplift funding of £3.9m to support and encourage the development of existing and new Welsh Language provision

Action Point 2

A detailed explanation of how 21st Century Schools funding will be affected from March 2019 with the on-going UK withdrawal from the EU;

The 21st Century Schools and Education Programme is funded by the Welsh Government, and does not receive any additional funding through ERDF / ESF.

The impact of Brexit on the UK economy and any consequential impacts on the Welsh Government's future budgets are, at this stage, uncertain however during the referendum voters were assured by the Leave campaigners that Wales would be not one penny worse off as a result of leaving the EU. The Welsh Government intends to hold the UK Government to account for that. We look to the Treasury to maintain our spending at current levels.

Action Point 3

Send the allocation regarding capital funding from the draft budget, if able to.

The published budgets for 2017/18 indicate that an inflated baseline budget is retained for the Programme over the period up to 2020/21. The budget is currently £100.813 million per annum.

Action Point 4

Details of how learners from the Travelling Community are supported in the FE sector.

Unfortunately, whilst we are aware that colleges do support learners from the Travelling Community, we do not collect information that specifically identifies these learners. We will undertake to work with ColegauCymru to identify the support mechanisms used at each institution to ensure we are supporting the Travelling Community in the best way possible.

Agenda Item 6.2

Adran yr Economi, Sgiliau a Chyfoeth Naturiol
Department for Economy, Skills and Natural Resources



Llywodraeth Cymru
Welsh Government

Nick Ramsay AM Chair,
Public Accounts Committee
National Assembly for Wales
c/o committeebusiness@wales.gsi.gov.uk

21 July 2017

Dear Chair

Welsh Government's funding of Kancoat

Further to your letter of 29th June.

The Kancoat project is included in the SIC codes that help to define the Advanced Materials and Manufacturing sector as clarified in my letter of May 31st. As previously advised the relevant SIC code is 2561 - treatment and coating of metals, this includes the lacquering and coating of metals. The Kancoat project was to produce pre lacquered steel and tinsplate strip, and this required in depth knowledge of metals, coating and application methods, therefore meeting the sector definition provided.

In terms of which companies are not included as Advanced Materials & Manufacturing, this would be all the other SIC codes. SIC codes and the sector description, establish the key priorities, they do not distinguish between what is considered to be advanced and what is not. All sectors maintain a flexible approach to business support, the decision to progress an enquiry in the Advanced Materials & Manufacturing sector is taken by the Head of Business Development and / or the Head of Sector who consider a range of factors including the individual company circumstances, the nature of the project, the business environment, and the strategic fit to the Welsh Government's wider priorities.

Yours sincerely

Mick McGuire
Director, Sectors and Business



Nick Ramsay AM

Chair

Public Accounts Committee

Nicholas.Ramsay@assembly.wales

Direct Line: 0300 025 6070

E-mail: Kathryn.Chamberlain@gov.wales

19 July 2017

Dear Mr Ramsay

In November 2016, I made a commitment to provide you with an update regarding the involvement of voluntary lay reviewers in our inspection plans.

We introduced the voluntary lay reviewer role in April 2016 and have attracted a number of candidates from varying backgrounds, including from, health, education and the private sector. To date, we have secured twelve voluntary lay reviewers and will be training a further six in July.

We have an ongoing recruitment campaign which is accessible via our [website](#). In addition, my team always looks for opportunities to encourage people to apply to be voluntary lay reviewers and proactively promote the role whenever possible. This has included, for example, asking our peer reviewers to speak to colleagues, family and friends about the voluntary lay reviewer role..

My communications team promote the voluntary lay reviewer role via social media and at events throughout Wales where they explain the benefits of being part of our work to seek patients' views. We have engaged with the voluntary sector and will continue to do so to secure further interest from prospective applicants.

During the last financial year, there have been times where my team haven't been able to secure a voluntary lay reviewer to undertake inspections due to lack of availability or conflict of interest. To ensure that patient experience is gathered, they have approached HIW staff to offer them the opportunity to volunteer for this role. This has also been extremely beneficial for staff from a developmental perspective.

I have asked my team to monitor the sourcing of voluntary lay reviewers and have asked them to report their findings to me in the Autumn.

Yours sincerely



DR KATE CHAMBERLAIN
Chief Executive

Cyfarwyddwr Cyffredinol Iechyd a Gwasanaethau Cymdeithasol/
Prif Weithredwr GIG Cymru
Grŵp Iechyd a Gwasanaethau Cymdeithasol

Director General Health and Social Services/
NHS Wales Chief Executive
Health and Social Services Group



Llywodraeth Cymru
Welsh Government

Nick Ramsay AM

Chair
Public Accounts Committee

25 July 2017

Dear Nick,

I am writing to you following my appearance before the Public Accounts Committee on 10 July, during which I undertook to provide further details on the changes to performance indicators introduced as part of the new ambulance response model.

The committee will be aware that calls to the ambulance service span a wide range of clinical acuity, from those in immediate danger of death, through to those that have very minor injuries or illnesses. The clinically driven changes introduced under the new model are enabling patients to receive the right response based on their clinical need and allow the Welsh ambulance service to concentrate its efforts on the most life-threatening cases such as cardiac arrest.

The Cabinet Secretary's decision to approve the substantive implementation of the new model earlier this year, followed an 18-month pilot and was based on robust clinical evidence as well as the recommendations of an independent evaluation of the pilot. The independent evaluation report found there to be clear and universal acknowledgement, both from within the ambulance service and external partners, that moving to the new clinical response model was the right thing to do and has helped to deliver a service that is more focussed on the quality of care patients receive as well as improving efficiency in the use of ambulance resources.

The changes were initially considered in response to Professor Siobhan McClelland's *Strategic Review of Welsh Ambulance Services (2013)*, which recommended the Welsh Government should consider moving away from the eight minute response time target, which was first introduced in the 1970s, to a more intelligent set of indicators, which put a greater emphasis on patient outcomes and experience. This was further supported by a clinical review, led by Dr Brendan Lloyd, medical director of the Welsh Ambulance Services NHS Trust, which found there was no evidence to support the previously accepted assumption that an eight-minute response makes a positive difference to the vast majority of people's outcomes following treatment. It was also found that the practice of chasing the outdated eight minute target for all emergency ambulance calls, irrespective of clinical

priority, was driving perverse behaviours and resulting in poor and inefficient clinical interventions for patients.

Since the clinical response model pilot was introduced on 1 October 2015, the Welsh ambulance service has continued to provide a safe and timely service to the people of Wales as the national target for 65% of immediately life threatening or 'Red' calls within eight minutes has been met in every month, and has exceeded 70% for the last 14 months. In June, the median response time for red calls was just 4 minutes and 23 seconds, the eleventh consecutive month when the median response time has been less than five minutes, and for serious but not immediately life threatening or 'Amber' calls, the average response was 14 minutes and 24 seconds. Notably, the service also demonstrated significantly improved resilience over the challenging winter months.

The introduction of the new Ambulance Quality Indicators provides further assurance beyond the time-based targets to ensure patients receive a safe and timely response to meet their clinical need. It has been particularly encouraging to note the high performance levels against the seven clinical indicators for stroke, sepsis, STEMI, febrile convulsions, hypoglycaemia, fractured neck of femur and cardiac arrest, which demonstrates that paramedics are delivering care that will make a real difference to patient outcomes.

The latest set of Ambulance Quality Indicators, which are published on a quarterly basis, can be found on the Emergency Ambulance Services Committee (EASC) website:

<http://www.wales.nhs.uk/easc/ambulance-quality-indicators>

Looking to the future, we will continue to be guided by the very best clinical evidence and advice on how we can continue to improve patient outcomes and patient experience. Indeed, the Welsh Ambulance Services NHS Trust (WAST) is currently working with the Emergency Ambulance Services Committee (EASC) to review the coding system used for emergency ambulance calls to ensure that they generate the appropriate response. This will involve analysing a number of key data sets to develop a robust evidence base for each code in terms of a safe and effective response to meet patients' needs. The review is expected to be completed in the Autumn.

We are confident these changes are improving patient experience. They are also making emergency ambulance services in Wales among the most progressive and transparent in the world and we see other parts of the UK taking note of our progress. The Scottish Ambulance Service is currently piloting a model similar to our own and on 13th July, NHS England announced English ambulance trusts will also be introducing new performance standards later this year.

Yours sincerely,



Dr Andrew Goodall

Agenda Item 6.5

Y Grŵp Addysg a Gwasanaethau Cyhoeddus
Education and Public Services Group



Llywodraeth Cymru
Welsh Government

Nick Ramsay AM
Chair, Public Accounts Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

28 July 2017

Dear Mr Ramsay,

COMMUNITY SAFETY IN WALES

Further to your letter of 29 March I am pleased to note that the Public Accounts Committee wishes to consider the draft findings and recommendations of the *Working Together for Safer Communities* review being undertaken by the Oversight Group, as announced by the Cabinet Secretary for Communities and Children on 9 March.

The review is now well under way with extensive engagement and consultation taking place with community safety stakeholders across Wales, together with a review of relevant documentary evidence, and both aspects are scheduled to be completed by the end of August.

It is anticipated that the initial draft of the review report will be completed in time for a series of regional multi-agency stakeholder events to test and finalise the findings and recommendations in September. The final draft – taking account of feedback from these events – will be completed in October and we propose to publish in December when the Cabinet Secretary for Communities and Children will make a statement setting out the way forward.

Yours sincerely

REG KILPATRICK

Cyfarwyddwr Llywodraeth Leol /
Director for Local Government



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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Yr Adran Iechyd a Gwasanaethau Cymdeithasol
Dirprwy Brif Weithredwr Dros Dro, GIG Cymru

Department for Health and Social Services
Deputy Chief Executive, NHS Wales

Agenda Item 6.6



Llywodraeth Cymru
Welsh Government

Huw Vaughan Thomas
Auditor General for Wales
Wales Audit Office
24 Cathedral Road
Cardiff
CF11 9LJ

Our Ref: SD/SE/JM

27 July 2017

Dear Mr Vaughan Thomas

Response to the Report of the Auditor General for Wales on Implementation of the NHS Finance (Wales) Act 2014

Andrew Goodall is currently on leave, therefore, I am responding to the recommendations in my role as Deputy Chief Executive, NHS Wales in his absence. We welcome the findings of the report and offer the following response to the two recommendations contained within it.

Recommendation 1

We recommend that the Welsh Government:

- a) sets out more clearly in its guidance how, working in partnership with the Welsh Government, NHS bodies that have incurred a deficit should plan to recover their financial position in order to meet the duty in future years; and**
- b) enhances its monitoring returns to include the position against the three-year rolling periods, not only the annual picture.**

Welsh Government Response:

Partially Accepted

We do not accept that NHS bodies require additional guidance from Welsh Government on the action they need to take to recover a deficit in order to meet the duty in future years. The operation of the duty was detailed in the Explanatory Memorandum to the Act, and also has been set out in Welsh Health Circular (2016) 054 – Statutory Financial Duties of Local Health Boards and NHS Trusts. However, we recognise the need to ensure that all new board members fully understand the organisation's duties, and this requirement will be addressed in the Independent Member's Induction Programme.

Ffôn • Tel 0300 025 5582

We accept the recommendation that our regular monitoring process needs to include a three-year perspective as well as the annual position for those organisations working to approved three-year plans. We will consider the additions we need to make to the monitoring process to include this perspective. This will be completed by 31st October 2017.

Recommendation 2

We recommend that the Welsh Government swiftly completes the review of its funding formula for health boards to ensure that variations in funding levels properly reflect differences in population health needs and other determinants of healthcare costs

Welsh Government Response:

Accepted

Phase 1 of the resource allocation review was completed within the Finance Regime element of Together for Health. We intend to take forward Phase 2 in due course. Project proposals and timetable are under development and will be shared with the Cabinet Secretary for Health, Well-being and Sport.

Yours sincerely



Simon Dean

Deputy Chief Executive, NHS Wales

cc.

- Cabinet Mailbox – Government.Committee.Business@wales.gsi.gov.uk
- The PAC Chair via the PAC mailbox – SeneddPAC@assembly.wales
- CGU Mailbox

Cyfarwyddwr Cyffredinol Iechyd a Gwasanaethau Cymdeithasol/
Prif Weithredwr GIG Cymru
Grŵp Iechyd a Gwasanaethau Cymdeithasol

Director General Health and Social Services/
NHS Wales Chief Executive
Health and Social Services Group



Llywodraeth Cymru
Welsh Government

Nick Ramsay AM
Chair
Public Accounts Committee

Our Ref: AG/MR

7th August 2017

Dear Mr Ramsay

NHS Waiting Times for Elective Care in Wales and Orthopaedic Services

As agreed following my appearance at the Public Accounts Committee meeting on 23 January 2017 and my interim letter of 3 March 2017, I now provide a six month update of progress for your information.

With regards to NHS waiting times, I am pleased to report that continued progress is being made. Waiting times at the end of March 2017 were the best since March 2014. March 2017 performance against the 26 week target was 88%, 1.2 percentage points higher than in March 2016. There was also an improvement of 4,836 over 36 week breaches (28%) compared to March 2016.

While there have been increases in the first two months of this financial year, the trend is still below the same period in 2016. 36 week breaches at the end of May 2017 were 1,236 (6%) below the same date in 2016.

The Welsh Government continues to hold the NHS to account for improving performance and balancing capacity and demand. Areas of focus include:

Demand management

- Demand and capacity planning for delivery of sustainable services forms a key part of the planned care programme approach. Data looking at health board sub specialty demand and capacity is collected and used to support local planned service redesign;
- Health boards have been asked to submit orthopaedic transition plans. Each plan will follow a number of steps which include service change, productivity and capacity

requirements to balance demand and capacity. Improved local data capture and reporting is required to support this process;

- A planned care informatics group has been established, led by NWIS, whose aim is to scrutinise data impact assessments for submissions to ensure accuracy of data;
- An example of redesign is seen in Cardiff and Vale UHB, who have significantly reduced their follow-up demand for hip and knee pathways by 70% by introducing patient reported outcome measures (PROMs) to track progress. The national board has prioritised Hip and Knee national patient reported outcome measures (PROMs) linked to this success;
- An all Wales orthopaedic outcome programme approach is being developed through national patient reported outcome measures (PROMs) and patient reported experience measures (PREMs). All health boards are initially looking at hips and knees, but this will be expanded with the development of a generic questionnaire which can be used to cover all areas. Data will be used to support both local and national reporting to evidence clinical practice, and can be used to review the impact of variance in practice;
- To date over 7,800 orthopaedic PROMs have been completed pre and post operatively across Wales;
- Four health boards are using the national platform for orthopaedic PROMS; two are continuing to use Amplitude. It is expected that all health boards will be reporting orthopaedic PROMS by the end of 2017.
- PREMs are currently being collected at outpatient level across Wales via different methods / sources. It is expected that PREMs collection will align with PROMs following resolution of reporting issues which should be in place at the start of 2018.

In your previous feedback you requested evidence that existing capacity is being used to best effect, and I can provide you with some additional evidence of progress in this area:

Effective use of capacity

Through the planned care program (PCP) and as part of the NHS delivery framework, a sub set of procedures/treatments have been identified with the classification “interventions not normally undertaken” (INNUs). These are marginally effective and ineffective interventions (procedures and medicines) that are deemed to have no or limited clinical value. While progress is being made (see table below) clinical challenge together with monitoring is undertaken through the national implementation groups.

Operation	2014	2015	2016	2017	Grand Total
Blepharoplasty for cosmetic reasons	218	262	250	112	842
Excision of benign eyelid lesion for non-cosmetic reasons	146	191	167	71	575
Radiology requests for non-specific lower back pain	154	242	274	82	752
Rhinoplasty for cosmetic reasons	256	295	339	153	1043
Therapies for non-specific lower back pain	741	1021	942	298	3002
Arthroscopic lavage and debridement	157	198	137	49	541

- The GIRFT (“get it right first time”) orthopaedic review recommendations have been adopted by the orthopaedic implementation board. Some of their findings challenge clinicians, as they found evidence of surgeons undertaking low annual volumes of certain surgical procedures. This is a concern because low volumes of arthroplasty for example may result in less favourable outcomes as well as increased costs. Through a procurement review led by Shared Services, variation in the use of prostheses has been identified and reported to the orthopaedic board for clinical discussion. A recent presentation to the orthopaedic board has shown:

- Observed Implant Survival is now in line with that of England, Implanted Primary hip revision rates in Wales are lower than in England;
 - Good practice observed in Cardiff and Vale UHB will be discussed at the next meeting in September.
- Clinical discussions are taking place within the orthopaedic board around possible future regional models of work. The Cabinet Secretary for Health, Wellbeing and Sport is using his meetings with health board chairs to seek assurance about the development of regional working across health boards to ensure sustainable evidence based clinical models are being developed. These discussions form part of the national review of orthopaedic services currently being undertaken.

Efficiency

- Delivery against an agreed set of planned care efficiency measures has shown improvement since the Welsh Audit Office reports were undertaken (see appendix A). Average length of stay for elective orthopaedics has improved by 0.2 days (December 2016 rolling 12 month improvement); length of stay for hips has improved by 0.4 days and for knees by 0.2 days. We will continue to seek further improvements in efficiency.

Clinical engagement

- The partnership approach in Wales between government and the NHS supports a collaborative approach to service change. Excellent clinical engagement through the national planned care programme helps develop different ways of working which deliver better services for the citizens of Wales.
- Each of the planned care programme areas has clinical representation from every health board, and the specialty groups are chaired by a clinical lead. Evidence shows that peer challenge and active engagement is the most effective way to support clinical change. The national implementation plans are developed and supported by these clinicians and backed up by strong clinical evidence.
- Clinicians are also working with Welsh Government policy leads to explore more appropriate access measures to support evidence based service delivery and improved patient outcomes.

Updates on other recommendations

- The revised RTT guidance was issued to the NHS in April for implementation. Formal feedback from health boards after quarter 1 has indicated that the revised rules have been implemented. Work with NWIS on IT changes continues, but this is not hindering implementation. Health boards are working with their local patient groups to reflect the national guidance and patient information in their local access policies and patient information resources. This is in addition to the website "*compendium of outpatient improvement*" which supports sharing good practice in outpatient redesign across the NHS in Wales. <http://www.goodpractice.wales/OIPcasesstudies1>
- Health boards continue to work on the redesign of their outpatient services in line with the nationally developed vision as covered in March 2017 update. Service redesign models indicated in the planned care programme service specific plans are fully aligned to this vision. The finalisation of the national specification for a Clinical Musculoskeletal Assessment and Treatment Service (CMATS) was delayed but should be issued in August for implementation. Health boards have already started to revise their local services in line with the emerging model. Progress will be monitored through the national orthopaedic board.

I trust that this letter provides you with further assurance that progress is being made in these important areas.

Yours sincerely

A handwritten signature in black ink, appearing to read "Andrew Goodall". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dr Andrew Goodall

Appendix A: Planned Care Pathway Delivery Progress : All Wales

Key Measure 1: Elective Average Length of Stay

Specialty	Baseline Performance 2015/16	Interim Check Dec-2016
General Surgery	3.8	3.8
Urology	2.3	2.3
Trauma & Orthopaedics	3.8	3.6
ENT	1.3	1.2
Gynaecology	2.5	2.4
Specialty Total	3.1	3.0

Key Measure 2: Daycase Rates

Specialty	Baseline Performance 2015/16	Interim Check Dec-2016
General Surgery	57.2%	58.3%
Urology	81.9%	80.8%
Trauma & Orthopaedics	59.7%	59.1%
ENT	53.1%	55.5%
Ophthalmology	96.2%	96.4%
Oral Surgery	82.0%	81.9%
Gynaecology	68.0%	67.0%
Specialty Total	71.4%	71.5%

Supporting Measure: Day of Surgery Admissions

Specialty	Baseline Performance 2015/16	Interim Check Dec-2016
General Surgery	61.4%	61.4%
Urology	78.5%	80.2%
Trauma & Orthopaedic	69.5%	71.8%
ENT	90.0%	80.8%
Ophthalmology	75.3%	78.3%
Oral Surgery	57.3%	62.6%
Gynaecology	70.6%	73.4%
Specialty Total	71.2%	72.6%

Supporting Measure: Elective Admissions with No Procedure

Patient Type	Baseline Performance 2015/16	Interim Check Dec-2016
Inpatients	3.9%	3.8%
Daycase	6.3%	5.9%

Supporting Measure: Elective Casemix Average Length of Stay

Procedure	Baseline Performance 2015/16	Interim Check Dec-2016
Hips	5.6	5.2
Knees	5.4	5.2

Outpatient Delivery Progress : All Wales

Key Measure 3: New Outpatient DNA Rate

Specialty	Baseline Performance 2015/16	Interim Check Dec-2016
General Surgery	7.3%	6.9%
Urology	9.1%	8.5%
Trauma & Orthopaedic	7.9%	7.6%
ENT	7.9%	7.4%
Ophthalmology	6.9%	7.2%
Oral Surgery	7.3%	6.5%
Dermatology	7.3%	8.2%
Rheumatology	8.4%	7.7%
Paediatrics	11.3%	10.6%
Gynaecology	8.6%	7.8%
Combined Medicine	8.6%	8.7%
Specialty Total	8.0%	7.8%

Key Measure 4: Follow Up Outpatient DNA Rate

Specialty	Baseline Performance 2015/16	Interim Check Dec-2016
General Surgery	8.7%	8.7%
Urology	8.5%	8.3%
Trauma & Orthopaedic	8.8%	8.5%
ENT	10.7%	10.7%
Ophthalmology	7.3%	7.3%
Oral Surgery	10.5%	10.1%
Dermatology	8.0%	8.1%
Rheumatology	8.9%	9.2%
Paediatrics	15.7%	15.5%
Gynaecology	9.6%	9.5%
Combined Medicine	10.9%	10.9%
Specialty Total	9.4%	9.3%

Committee Chairs
National Assembly for Wales
Cardiff Bay
CF99 1NA

18 August 2017

Dear Committee Chair

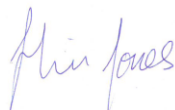
Implementation of the Wales Act 2017

Thank you for the consideration by your Committee of the Secretary of State for Wales' consultation on the above.

Please find attached my response to the Secretary of State for Wales. In light of comments received from the Finance Committee and discussions with Welsh Government officials, I have suggested changing the day on which the reserved powers model will come into effect from 6 April 2018 to 1 April 2018, to coincide with the date on which the new devolved taxes will come on stream. The Secretary of State for Wales will specify the Principal Appointed Day in Regulations.

I will keep you informed of any further correspondence from the Secretary of State for Wales on this matter.

Yours sincerely



Elin Jones AM
Llywydd

Enc

Croesewir gohebiaeth yn Gymraeg neu Saesneg / We welcome correspondence in Welsh or English

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Elin Jones AC, Llywydd

Cynulliad Cenedlaethol Cymru

Elin Jones AM, Presiding Officer

National Assembly for Wales

The Rt Hon Alun Cairns MP
Secretary of State for Wales
1 Caspian Point
Caspian Way
Cardiff Bay
CF10 4DQ

Your ref: 250SUB 17
Our ref: PO210/EJ/HG

18 August 2017

Dear Alun

Thank you for your letter dated 10 July proposing 6 April 2018 as the Principal Appointed Day on which the reserved powers model for Wales will come into effect.

I have considered the proposals you put forward, and consulted the Assembly's committees. On this basis, I agree with you that the new arrangements should come into effect in April 2018 on the same date as the new devolved taxes take effect - the Land Transaction Tax and Landfill Disposals Tax. I am advised that this will happen on 1 April 2018. I would therefore suggest that the PAD should be 1 April 2018. This would mean that the reserved powers model would come into effect on Easter Sunday.

You also indicated in your letter that your officials were considering whether the two year parliamentary session would give rise to any implications for the Legislative Consent Motions which might be required. I look forward to receiving this further information in due course.

Yours sincerely

Elin Jones AM
Llywydd

cc Chairs of Assembly Committees

Croesewir gohebiaeth yn Gymraeg neu Saesneg / We welcome correspondence in Welsh or English

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Pack Page 176

Y Swyddfa Breifat

18 SEP 2017

PO 262

Private Office

Elin Jones AM
Presiding Officer
National Assembly for Wales
Cardiff Bay
CF99 1NA

Ref: 414SUB 17

17^{fed} September 2017

Alun Cairns

Wales Act 2017: Principal Appointed Day (PAD)

Further to your letter of 18 August, I am writing to confirm that I am content for the Principal Appointed Day (PAD) to be the 1 April 2018. I have instructed my officials to proceed on that basis. They will of course work closely with your officials to ensure a smooth transition to the new devolution settlement.

I am copying this letter to the First Minister and have written to him in similar terms.

Alun Cairns

Rt Hon Alun Cairns MP
Secretary of State for Wales
Ysgrifennydd Gwladol Cymru



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The Rt Hon Carwyn Jones AM
First Minister of Wales
Welsh Government
Tŷ Hywel
Cardiff Bay
CF99 1NA

Ref: 414SUB 17

17 September 2017

Alun Cairns

Wales Act 2017: Principal Appointed Day (PAD)

Further to your letter of 25 August, I am writing to confirm that I am content for the Principal Appointed Day (PAD) to be the 1 April 2018. I have instructed my officials to proceed on that basis. They will of course work closely with yours to ensure a smooth transition to the new devolution settlement.

I am copying this letter to the Presiding Officer and have written to her in similar terms.

Xams,
Alun

Rt Hon Alun Cairns MP
Secretary of State for Wales
Ysgrifennydd Gwladol Cymru

Owen Evans

Dirprwy Ysgrifennydd Parhaol / Deputy Permanent Secretary

Y Grŵp Addysg a Gwasanaethau Cyhoeddus
Education and Public Services Group

Agenda Item 6.9



Llywodraeth Cymru
Welsh Government

Reference: HVT/2710/fgb

Mr Huw Vaughan Thomas
Auditor General for Wales
24 Cathedral Road
Cardiff
CF11 9LJ

9 August, 2017

Dear Huw

AUDITOR GENERAL FOR WALES DRAFT REPORT: THE 21ST CENTURY SCHOOLS AND EDUCATION PROGRAMME

Following my earlier letter in respect to the 21st Century Schools and Education Programme audit report, I am now pleased to enclose an update, which formally confirms our acceptance / acceptance in principle of the recommendations; provides an anticipated completion date for the recommendations; and reports on the progress made to date.

This information is contained within Annex A of this letter.

Yours Sincerely

Owen Evans
Deputy Permanent Secretary Education and Public Services

cc Cabinet and Plenary Mailbox
The PAC Chair
WG CGU Mailbox



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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Annex A

Recommendation One

Overall, our view is that the governance arrangements for overseeing and approving projects are sound. However we found that the final advice put to Ministers, on which to base their funding decisions, did not adequately reflect outstanding risks and concerns with the projects.

The Welsh Government has subsequently updated its approach but there is scope to go further. The Welsh Government should ensure that Ministerial briefings on which funding decisions are taken set out the actions taken in response to any concerns or conditions identified by the Capital Investment Panel

Response: Accept

Completion Date: Complete

The Welsh Government has already taken action in this area. The process to resolve queries arising from our Business Case assessment has been strengthened to ensure that we record all responses from our assessors. The vast majority of questions are resolved prior to submission for approval. Many are technical questions or matters which need clarification rather than issues which need to be drawn to the Cabinet Secretary's attention. In the small number of cases where there are issues which need to be flagged, these are highlighted in the submission to the Cabinet Secretary

Recommendation Two

Going forwards, the Welsh Government is likely to make some substantial changes to the way the programme is funded and managed. The Welsh Government will need to finalise updated governance arrangements for Band B of the programme that take appropriate account of:

- **the complexities of making use of revenue funding, learning from the experience of other parts of the UK; and**
- **any shift in the balance of funding between partners.**

Response: Accept

Completion Date: March 2019

The 21st Century Schools and Education Programme has robust governance arrangements in place, which takes into account both capital and revenue funding streams. Additional arrangements have already been put in place to oversee the development of the Band B Programme, along with the establishment of a Band B Panel which is comprised of senior Welsh Government officials. The Programme will continue to apply a co-construction approach in Band B, with the involvement of all delivery partners. This approach means that the Programme is developed and delivered on a collaborative basis and in true partnership with authorities.

In respect of revenue funding, the Mutual Investment Model has been developed taking into account learning from Scotland, England and Ireland. Officials continue to speak regularly with the Department for Education, Scottish Futures Trust and the European PPP Expertise Centre (EPEC).

Any shifts in the balance of funding will be decided following appropriate discussions with our stakeholders during the ongoing development of the Band B Programme.

Recommendation Three

The Welsh Government is currently consulting with councils and further education colleges about the funding for Band B and, in particular, if there is appetite to participate in the Mutual Investment Model. Recognising this ongoing work, the Welsh Government should set out its plans for funding Band B of the programme as soon as possible, taking into account:

- **the volume and cost of the remedial work required to bring all schools in Wales, including voluntary-aided schools, up to a good or satisfactory standard; and**
- **the capacity of councils, further education colleges and the diocese to fund further capital or revenue based investment in schools.**

Response: Accept

Completion Date: December 2017

Partners were asked to indicate demand for investment and their capacity to fund Band B works in April 2017, when they were informed that the grant intervention rate would be 50% for capital projects and at least 70% for revenue funded projects. Following this work, the Cabinet Secretary agreed a grant intervention rate for planning purposes: 75% for the Mutual Investment Model and 50% for capital. These intervention rates have been communicated to all delivery partners in writing and this message has been reinforced during recent meetings.

We will request information in the annual condition survey about the level of backlog maintenance required for each school, which will inform the level of investment needed in the educational estate.

We have also asked that our partners submit formal plans in respect of their Band B Programmes, which will require sign off at Cabinet / Board level. The plans were requested in May 2017 and they were returned by 31 July. These formal plans align with Treasury best practice and will include confirmation of strategic alignment; value for money, deliverability and affordability of the proposed improvements. Work will be done to ensure that the plans have the appropriate level of sign off. It is intended that the Cabinet Secretary will make an announcement about plans for funding Band B of the Programme by the end of October 2017, however a date of December 2017 has been put in place to ensure that any further questions or clarification in respect of this recommendation will be completed by this date.

Recommendation Four

A national condition survey in 2010 helped to provide a clear baseline on the condition and suitability of the school estate, although there has been little public reporting of the data or the progress of the programme nationally. Since then, councils have updated their data annually. A sample survey was also carried out in 2016 to assess consistency of data. Given the proportion of schools that were judged to be incorrectly categorised, we recommend that the Welsh Government:

- a. **urgently issue updated guidance on classifying schools, setting out any common issues and errors identified in the sample review;**
- b. **require councils to update their assessment of every school, based on the updated guidance.**
- c. **carry out another review of a sample of the data to check that councils are applying the categories correctly and consistently; and**
- d. **report publicly on progress to improve the condition and suitability of the school estate alongside achievement of wider benefits.**

Response: a) b) d) Accept, c) Accept in Principle

Completion Date: August 2018

- a) Our annual condition survey is being prepared for issue, which has been a yearly collection of data in place since 2013. This year, the survey has been enhanced so that both school and Further Education data is collected at the same time. This document includes guidance in respect of the sample surveys recently carried out, which will ensure that the method employed by our surveyors is replicated across Wales and reflects lessons learned.
- b) Our delivery partners will be required to use the revised guidance to update their estate assessments. As it is likely that this will take some time to fully implement this new methodology, we propose to ask that it be adopted straight away where possible, with a view to make this a mandatory approach by next year's data collection.
- c) Once this data has been received we will review the findings and consider further action, including whether a further sample survey is necessary to test the data.
- d) To ensure greater transparency in reporting, work is being undertaken to update the 21st Century Schools Website to report Programme progress in respect of school estate improvement and wider Programme benefits.

Recommendation Five

The programme has prioritised the reduction of surplus places and has been one of several factors contributing to a fall in surplus places, although most councils are still above target, especially for secondary school places. For Band B, the Welsh Government is prioritising building condition more than surplus places. The Welsh Government should continue to work with councils to:

- a. **ensure that the programme continues to contribute to a reduction in surplus places despite the shift in priorities, especially in those council areas where a growth in the secondary age population is not expected.**
- b. **ensure that building programmes for Band B appropriately reflect local demand for Welsh-medium education and the Welsh Government's intentions to substantially increase the numbers of pupils learning through the medium of Welsh;**
- c. **engage with Diocesan authorities to assess the likely demand for faith schools across Wales; and**

d. identify cost effective and timely approaches for councils that face acute pressure for new places.

Response: Accept

Completion Date: April 2019

- a) The identified aims of the Band B Programme are to:
- a. Reduce the number of poor condition schools and colleges;
 - b. Ensure that we have the right size schools and colleges, in the right location that:
 - i. Provide enough places to deliver Welsh and English medium education; and
 - ii. Ensure the effective and efficient use of the educational estate.

Ensuring that we have the right sized schools and colleges allows our partners to promote projects that address both too few and too many places to ensure that local needs can be reflected. We have regular engagement with those local authorities which are facing pressure for places to understand the need for investment. Welsh Government policy officials who deal with provision of school places assess business cases for investment and ensure that surplus places are addressed through this process.

- b) The developing Programme specifies that we wish to have enough places to deliver Welsh-medium education, and our updated Guidance refers to the Welsh Government priority of one million Welsh speakers by 2050. Our request for a Strategic Outline Programme from our partners also highlights the importance of increasing provision for Welsh medium education, either through the creation of new schools or through existing schools moving along the linguistic continuum. This has been reinforced by our recent circulation of the assessment criteria for the Strategic Outline Programmes which include the need for alignment with Welsh in Education Strategic Plans
- c) We are working with Diocesan authorities in respect of Church schools to understand the demand for investment in the sector. Our current understanding is that in most cases, the drivers for investment in Church Schools in Band B are based on the condition and efficiency of the estate, rather than on pressure for additional places. The funding mechanism employed for church schools has been revised so that the 85% allocation given to church schools does not form part of the 50% authority allocation. It is hoped that this will ease pressure on the sector who deliver their projects collaboratively with authority partners.
- d) We work closely with all of our partners and part of this work involves identification of pressure points and where pressure for places may occur. This work will be ongoing as the Band B Programme develops.

Recommendation Six

Some of the completed new school buildings are not achieving the Welsh Government's energy efficiency and sustainability targets for the programme. We recommend that the Welsh Government strengthens its work with councils to:

- a. liaise with industry experts to understand the gap between expected and achieved energy efficiency performance and how it can be remedied and reduced in future projects.**
- b. challenge business cases that rely on significant savings from energy efficiency technology in the whole life cost assessment robustly; and**
- c. encourage schools to assess their energy use when the building is first occupied and then annually to ensure that they are benefitting from the anticipated recurring savings in energy costs.**

Response: Accept

Completion Date: July 2018

- a) Work has already been carried out to address this recommendation. A Best Practice Guide has been prepared and was presented to partners at three seminar events held in May. This Guide will be published on our website shortly. The Guide was prepared by Constructing Excellence in Wales in consultation with the construction industry.
- b) All business cases received are scrutinised by an Economist during the assessment process to ensure robust challenge of the value for money of projects and includes consideration of whole life costing and identification of potential cost reductions as a result of the build. We are also working with our Economists to run Economic Case Training for our delivery partners this year to ensure that they are equipped to drive the best value for money from their programmes.
- c) Our post occupancy review is being piloted with an expectation of wider roll out by July 2018. This survey includes identification of anticipated energy use and actual energy use to ensure that anticipated savings are being made.

Recommendation Seven

Analysis of the costs of completed Band A projects shows significant variation in the total costs as well as in ICT and fixtures, fitting and equipment costs. New schools have exceeded the maximum industry area standards by 7-10%. Some projects are using an approach known as Building Information Modelling in the design and construction phases that has been shown to achieve time and cost savings as well as improving quality. The Welsh Government should build on work already carried out to:

- a. reach agreement with councils, other partners and industry representatives on the options for bringing greater standardisation to the projects including floor area and elements of the build;**
- b. require the use of Building Information Modelling in projects within the programme; and**

- c. **provide more detailed guidance about the level of IT and fixtures, fittings and equipment that can be funded from the programme to ensure consistency between projects.**

Response: Accept

Completion Date: March 2019

- a) Agreement has been reached with local authority partners on the standard size and cost for new schools that will be funded by Welsh Government within the Programme. This standard is based on the sizes prescribed by BB98 and 99. The cost per square metre includes all above ground work, plus sub structure, design costs and external works. The cost per square metre was set at £2,500 (2016 costs). This work is being extended to identify a standard cost for further education, which sees more variation in the types of accommodation needed to deliver both academic and vocational learning.
- b) We agree to include the requirement for Building Information Modelling and will develop the Band B Programme on that basis.
- c) We have provided guidance around the maximum investment per pupil that can be funded from the Programme for fixtures, fittings and equipment and IT. This is set at a per pupil rate of £1,100 for fixtures, fitting and equipment and £500 for IT. The reason that we have applied a cost per pupil, rather than a specification is that this is a matter of policy for local authorities / Further Education Institutions. In addition, as IT is a fast moving area, it is likely that any such guidance would become quickly outdated.

Recommendation Eight

There is evidence that the regional procurement frameworks are not operating as intended, with some duplication and councils not adopting good practice in procurement methods. The Welsh Government should:

- a. **ensure that councils adopt accepted good practice in the approach to construction with a presumption in favour of design and build (excepting projects funded through the Mutual Investment Model);**
- b. **improve communication with industry on the likely timing and scale of work under the frameworks;**
- c. **understand and address the reasons why some councils are conducting pre-tender exercises despite contractors already having gone through the same process to get on the frameworks; and**
- d. **engage stakeholders, including councils and the construction industry, in developing and finalising the procurement framework in light of changes for Band B.**

Response: Accept

Completion Date: March 2019

- a) The Welsh Government has already adopted space and cost standards that will encourage local authority best practice and we improve partnership working to keep information on the pipeline of projects up to date and look to highlight upcoming

projects on our website. We are happy to encourage a design and build approach, however recognise that this will not be appropriate for all authorities.

- b) Industry engagement is planned for October when the results of the strategic outline programme assessment will be more apparent.
- c) From recent engagement it appears that there are a number of reasons why some authorities may wish to undertake pre-tender exercises. The most common of which occurs when batching of schemes has been desired. This exercise ensures that there are no procurement challenges should this route be sought. We continue to work with our partners to understand the different procurement routes available within the existing frameworks and will work with the Frameworks to understand whether any changes are necessary to allow for batching to take place without this additional step.
- d) We will work with our partners to ensure that the procurement frameworks are appropriate for our Band B Programme. This will involve seeking evidence from authorities and from the Frameworks in place.

Recommendation Nine

The Welsh Government has now established more clearly than in the past what benefits it wants to achieve through the programme. It has established a discrete set of targets for local supply chain, apprenticeships and training and STEM engagement with schools.

It is also clear that a future priority will be to make more community use of the school buildings. To increase the wider benefits flowing from investment in the programme, the Welsh Government should:

- a. **ensure that its targets for projects remain stretching over time;**
- b. **promote good practice in achieving community benefits, for example through regularly updated the 21st Century Schools website, regional networks and industry events; and**
- c. **review how the identified barriers to increasing community use of school buildings can be addressed in Band B of the programme.**

Response: Accept

Completion Date: March 2019

- a) We agree that targets should remain stretching and these will be reviewed over time.
- b) To facilitate sharing of best practice, the Welsh Government held three seminars in May in partnership with Constructing Excellence in Wales to update partners on a number of subjects, including community benefits. The seminars also included opportunities to network and share best practice. We will continue to work with stakeholders to promote a consistent approach and our website is being updated to publish additional materials relating to good practice and updated guidance.
- c) Increased community access to school buildings is a priority identified in Band B, with an Investment Objective to improve flexibility of assets. Propositions for Band B projects are being developed and we will continue to work with partners to ensure

that cultural and practical barriers to increasing use of assets are overcome. This might involve a range of actions including designing schools to provide separate access for the community, and introducing claw back clauses into contracts so that if additional funding is provided for community space, it is subject to claw back should it not be used for this purpose.

Recommendation Ten

The Welsh Government has put in place arrangements for technical support to the programme. It has strengthened the capacity of its own team through recruitment of experts in public-private finance. It is also setting up framework contracts to provide technical support to councils. Given the technical changes to the programme under Band B, the Welsh Government should, at the end of 2018, fully review whether the arrangements are working to:

- a. provide the Welsh Government with the technical expertise it needs to manage and oversee the programme; and**
- b. provide councils with the technical support they need to plan and deliver the programme locally.**

Response: Accept

Completion: December 2018

- a) A technical advisor has been appointed from Vale of Glamorgan Local Authority to advise on the development of the Band B Programme, particularly in respect to the Mutual Investment Model.
- b) A mini tender is currently underway to secure technical support for both the Mutual Investment Model and capital elements of the Band B Programme. This contract is accessible to both Welsh Government Officials and our partners. The arrangements will be reviewed at the end of 2018 to ensure that they are fit for purpose.



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref MA-P-LG/2498/17

Nick Ramsay, AM
Chair – Public Accounts Committee
National Assembly for Wales

Nick.ramsay@assembly.wales

27 July 2017

Dear Nick

PUBLIC ACCOUNTS COMMITTEE REPORT COASTAL FLOOD AND EROSION RISK MANAGEMENT IN WALES RESPONSE TO THE REPORT

I have pleasure in enclosing a copy of the Welsh Ministers response to the above report which will be laid before the Table Office.

On behalf of the Cabinet, I would like to thank you and the Committee for the careful and considered way in which you undertook the investigation and produced the report.

Regards

Lesley Griffiths AC/AM

Ysgrifennydd y Cabinet dros yr Amgylchedd a Materion Gwledig
Cabinet Secretary for Environment and Rural Affairs

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Response to the Report of the National Assembly for Wales Public Accounts Committee on Coastal Flood and Erosion Risk Management in Wales

We welcome the findings of the report and offer the following responses to its 10 recommendations. We have provided an indication of the lead responsible; however these recommendations will require a partnership approach to deliver.

Recommendation 1 The Committee recommends that the Welsh Government clearly set out in the national strategy the roles and responsibilities for all those involved in coastal flood and erosion risk management to ensure that it is clear who is responsible for delivering each aspect of the strategy.

Accepted This recommendation corresponds to Recommendation 2 of the 2016 WAO report. The Welsh Government will clarify roles and responsibilities around the coast as part of the National Strategy update. Work to review and update the National Strategy for Flood and Coastal Erosion Risk Management in Wales has commenced. As part of this work the Welsh Government will work with Risk Management Authorities to clarify the roles and responsibilities around the coast, giving consideration to the findings of Public Accounts Committee and the 2016 Wales Audit Office (WAO) report as well as research being undertaken on governance.

Background: The responsibilities of both NRW and Local Authorities in relation to the coast are set out in legislation such as the Flood and Water Management Act 2010, the Environment Act 1995, and the Coast Protection Act 1949. The 2016 WAO report highlighted that clarity is needed on the roles and responsibilities of Risk Management Authorities involved in flood and coastal erosion risk management. The evidence provided by Welsh Local Government Association (WLGA) and Natural Resources Wales (NRW) to the Public Accounts Committee (PAC) confirmed Authorities are clear about their operational roles (PAC report, paragraph 10), however there is some concern around ownership of flood and coastal assets.

The development of a national asset database will assist with addressing these concerns around asset ownership. The Cabinet Secretary for Environment and Rural Affairs wrote to the Leaders of all Local Authorities in July 2016 to raise the importance of work to bring together flood asset data around Wales. This database has been introduced since the PAC inquiry, and will help to define responsibilities on the coast. It is maintained by NRW and, since March 2017, has included data from all Welsh Local Authorities, including information on ownership and condition, helping to provide a national overview of flood and coastal risk assets. The database will continue to be populated as new assets are added and will inform NRW flood maps and the Communities at Risk Register.

The DEFRA/EA/WG/NRW Joint Research Programme (referenced in para 2.6 of the 2016 WAO report) has recently scoped a research project into governance around flood risk in England and Wales. This work is due to conclude in spring 2018. The Welsh Government will maintain a watching brief as it may help inform further clarification of coastal roles and responsibilities as part of the National Strategy update.

Timescale and Lead

Population of the National Asset Database has commenced – Lead: NRW
National Strategy to be published summer 2018 – Lead: Welsh Government

Recommendation 2 The Committee recommends that the Welsh Government work with the UK Government to bring forward an amendment to the 2010 Flood and Water Management Act to place an oversight role on the monitoring of the national strategy with the flood and coastal erosion committee or another body rather than just with Natural Resources Wales.

Accepted in Principle Following the WAO Audit, we accepted the recommendation to review Section 18 reporting arrangements. When established later in 2017, the Flood and Coastal Erosion Committee will be asked to consider options for the review of the National Strategy and explore how it can provide an independent review or oversight role of the Section 18 report, prior to publication.

The Welsh Government consider providing this oversight role to the committee to be an appropriate way to separate NRW's duties as a Risk Management Authority and its legislative role to review the implementation of the National Strategy in Wales. The Welsh Government agrees with the principle of giving the new Committee an oversight role in monitoring the National Strategy but this can be done without changing legislation.

Background: The Flood and Water Management Act 2010 (Section 18) sets out responsibility for NRW to monitor and report on the National Strategy's implementation. The National Strategy for Flood and Coastal Erosion Risk Management in Wales sets the scope of this reporting, and the frequency of those reports as every two years. In particular this report covers progress by Local Authorities and NRW on meeting the objectives set out in the National Strategy.

The Flood and Coastal Erosion Committee is to be established later this year. Its role will be as an advisory body, providing advice to the Cabinet Secretary from Welsh Risk Management Authorities on all sources of flooding and coastal erosion.

The separation of duties in Wales is already more distinct than in England where the Environment Agency drafts the National Strategy as well as reporting on it through Section 18 reports.

Recommendation 3 The Committee recommends that the Welsh Government has mechanisms in place to provide assurances that accountability for all areas of the Coast, and implementation of the Shoreline Management Plans is clear, and this information is communicated to all those with responsibility for the coastline.

Accepted This links to the need to clarify roles and responsibilities in Recommendation 1.

Shoreline Management Plans (SMPs) are non-statutory plans which set out the preferred management strategy for our entire coastline. They have been produced by the Coastal Groups which consist of coastal Local Authorities, NRW and other bodies with coastal interest. As SMPs have been developed by the Coastal Groups, they remain best placed to lead on and monitor the delivery of actions from each Plan.

These are “living documents” and in signing each off, the former Minister stressed the importance of effective communication with local residents by writing to the Coastal Group Chairs in 2014.

The Welsh Government undertook a review of the Coastal Groups in May 2016, following recommendation 39 of the Wales Coastal Flooding Review. A review of the Terms of Reference for the Coastal Groups by the Welsh Coastal Group Forum is underway. The Welsh Government will work with the Welsh Coastal Group Forum to ensure the Terms of Reference of all Coastal Groups are clear including implementation of the SMPs, and communicated as part of the National Strategy update.

Timescale: National Strategy to be published summer 2018

Lead: Welsh Government

Recommendation 4 The Committee recommends that the Welsh Government works with delivery partners to develop a single point of information for flood awareness, such as a 'microsite' or website, which includes clear details of roles and responsibilities for flood awareness.

Accepted Raising awareness of the risks of flood is vitally important work against one of the four objectives set out in the National Strategy. The Welsh Government is committed to the development of a microsite and has written to NRW to ask it to take the lead on this project.

The Welsh Government agrees one site providing a consistent message to the public is important, and is working with NRW and WLGA to develop a microsite providing clear and consistent messaging to the public around flood and coastal erosion risk management. The work involved with this is to be scoped by NRW in 2017-18.

Timescale: Scoping during 2017-18; WG will update PAC on timescale for project development March 2018.

Lead: NRW

Recommendation 5 The Committee recommends that the Welsh Government works with Local Authorities to consider the options for the management of coastal flood and erosion on a regional basis and reports back by January 2018.

Accepted There are already established regional groups working on coastal flood and erosion in Wales. The Welsh Government has asked WLGA to report on the way regional working is already happening in coastal flood and erosion management in Wales and how this can be further encouraged.

Background: The WLGA promote regional working through three regional flood groups including representatives of all Local Authorities, Welsh Water and NRW, and discuss risk management measures for coastal flooding and erosion as well as flooding from rivers and surface water.

In addition there are 5 regional Coastal Groups in Wales, who are responsible for the preparation of the Shoreline Management Plans, and delivery of the actions within them (see response to Recommendation 3). The Coastal Groups encourage Risk Management Authorities to work together to deliver the actions, as well as share best practice between parties. The role of the Coastal Groups was reviewed by Welsh Government in May 2016 in consultation with Local Authorities, NRW and WLGA, and recommended the Terms of Reference of those groups be updated and standardised.

The Coastal Risk Management Programme is providing further opportunities for regional working between Local Authorities where appropriate.

The Cardigan Bay Coastal Group holds an annual meeting involving council cabinet leads from the Local Authorities of Ceredigion, Gwynedd and Pembrokeshire. This complements practitioners' meetings by raising awareness of ongoing work and future plans with those involved in political decisions and direction. This type of regional working at a political level for coastal issues could be encouraged in the other coastal groups. This should be led by the Wales Coastal Group Forum which meets regularly to share best practice.

The established links between Risk Management Authorities, the Wales Coastal Group Forum and WLGA help to ensure a consistent approach, encourage regional working and sharing functions, which is happening between Gwynedd and neighbouring authorities. However, Welsh Government will task WLGA to review the operation of the groups, reporting examples of regional working, along with any opportunity for improvement particularly in relation to identifying other benefits such as tourism, and jobs.

The Welsh Government has consulted on a White Paper on Reforming Local Government, and await the result of that consultation.

Timescale: Report to be produced by January 2018

Lead: WLGA

Recommendation 6 The Committee recommends that within the next 12 to 24 months the Welsh Government must produce a policy position which sets out a range of options for managed realignment.

Accepted This recommendation corresponds to Recommendation 3 of the 2016 WAO report. The Welsh Government agrees with the PAC when it says there is no 'one size fits all' approach to managed realignment. Since the WAO audit, the Welsh Government has commenced work to develop a 'coastal toolkit' which will support Local Authorities by providing guidance and best practice examples which can be adapted to local conditions.

In addition, the 2018 National Strategy update will set out the policy position on how SMPs are to be considered and implemented by Risk Management Authorities. In this way, the Welsh Government will set out its policy position which will allow for action at a local level providing guidance and support through the toolkit to help this happen.

Background: The Welsh Government is working with Gwynedd Council to understand more about the options available for communities where the policy is for managed realignment through the ongoing work at Fairbourne. The findings of this work will be presented to the Welsh Government early in 2018, and will help to develop the toolkit.

The Welsh Government is supporting further investigations into the Shoreline Management Plan policies at Newton (Bridgend), Newgale (Pembrokeshire) and for the stretch of coast between Rhyl and Talacre (Denbighshire and Flintshire) and from Borth to Ynys Las (Ceredigion). These will also help to inform best practice for others to follow in implementing or challenging the policies in the SMP, such as managed realignment.

Welsh Government officials have recently met with the Chair of the Coastal Groups Forum, WLGA, Pembrokeshire Coast National Park, and NRW to help scope a coastal adaptation toolkit. This work is in the early stage of development and will seek further input from other Welsh Government departments including Housing, Planning and Biodiversity as well as external stakeholders to provide appropriate guidance for Local Authorities and communities.

A coastal adaptation toolkit will complement National Strategy and provide practical advice for practitioners and communities. It will cover all SMP policies and not limit itself only to managed realignment.

Timescale: Preparation of a toolkit is ongoing with publication alongside, or shortly after, the National Strategy in 2018.

Lead: Welsh Government

Recommendation 7 The Committee recommends that the Welsh Government develops and ensures implementation of a National Flood Risk Index which means that all flooding and erosion risks are considered together as a prioritised list.

Accepted The Communities at Risk Register is now our National Flood Risk Index. This contains information on the risk of flooding from rivers, ordinary watercourses, the sea and surface water. The Communities at Risk Register has always been used by NRW to prioritise their programme. Since late 2016 data about the risk from surface water flooding has been included and in January 2017, Welsh Government wrote to all Local Authorities requesting they also use this register, alongside other relevant local information, to support their applications for funding and by the Programme Board. In developing the Programme for 2018/19 and beyond we are making use of the Communities at Risk Register alongside local evidence of flood risk and events. This prioritised programme will consider schemes from NRW and Local Authorities to address risk from various different sources.

Background: Whilst the Communities at Risk Register provides a national flood index, this risk is based on modelled evidence, therefore we also acknowledge the importance of local data around historic flooding, provided by the Local Authorities when making decisions about funding.

NRW have always used this index for prioritising their programme of work.

With a four year capital budget settlement confirmed we are in the process of bringing together a pipeline of schemes from NRW and Local Authorities. This will be prioritised on a national scale using both the Communities at Risk Register and historical evidence of flood risk.

NRW is currently looking at improved flood risk mapping through the new National Flood Risk Assessment (NaFRA). This will show mitigated risk from flooding from rivers, the sea and surface water. When complete, this will also include information on historical flood events. This will further improve, and could ultimately replace, the Communities at Risk Register.

Timescale: Complete.

The Communities at Risk Register is now our National Flood Risk Index

Recommendation 8 The Committee recommends that the Welsh Government considers, as part of the strategy review, the balance of capital/revenue investment for coastal flooding and risk management in future, and sets out revenue commitments over a longer period to allow for more strategic planning.

Accepted in Principle We recognise revenue funding is as important as capital in providing funding for maintenance of existing assets and we will invest over £22m in revenue funding this year for flood and coastal risk management.

However, there is uncertainty about how our relationship with the European Union will be recast as a result of the EU referendum and there is uncertainty about the impact on UK public finances and the Welsh budget in the longer-term. With these uncertainties, the Cabinet Secretary for Finance and Local Government and the Cabinet only published a one-year revenue spending plan for 2017-18 in order to provide stability for core services and investing in priorities in the immediate term.

As there was more confidence regarding capital funding, four-year capital plans have been provided to our delivery partners, which will provide certainty for longer-term investments.

In line with recommendation 1b in the WAO report, we will ask the Flood and Coastal Erosion Committee to look into potential funding partnership opportunities.

Timescale: Revenue budget settlement should be confirmed for the next financial year by December 2017

Lead: Welsh Government

Recommendation 9 The Committee recommends that the Welsh Government outline a medium/long term plan (post 2021) for funding projects which would be covered under the coastal risk management programme until 2021.

Accepted in Principle The Coastal Risk Management Programme (CRMP) provides an opportunity for increased investment by Local Authorities in coastal risk management with funding awarded for construction from 2018-2021. It is a one-off programme making use of low interest rates and long term revenue funding to enable a £150 million investment.

From 2021, the core flood programme, subject to funding, will continue to provide investment in flood and coastal risk management schemes across Wales. In line with the core programme, future schemes coming forward from Local Authorities and NRW will be prioritised according to risk, using the Communities at Risk Register and local information in each business case.

Officials are in the process of developing a pipeline of Local Authority and NRW schemes planned beyond March 2021, so whilst we cannot guarantee funding; a strong case can be made to continue investment.

By the end of the 2019-20 financial year we will conduct a mid-programme review with Welsh Treasury and local authorities on the progress of CRMP as a funding mechanism and the requirement for medium to long term funding of coastal work.

Timescale: Mid programme review to be complete March 2020

Lead: Welsh Government

Recommendation 10 The Committee recommends that the Welsh Government undertake an audit on a two yearly basis to ensure that the necessary staff levels and skills are available within the Welsh Government, NRW, and Local Authorities to achieve the aims in the National Strategy.

Not Accepted The Welsh Government, NRW and Local Authorities are responsible for their own staffing levels; nevertheless, part of the programme management work for these organisations is to consider issues around capacity and what needs to be done to deliver the programme. Local Authorities are able to apply for staff costs within their annual bids for the ESD Single Revenue Grant and both Local Authorities and NRW can include staff costs connected to capital schemes within applications for works.

Recent audits (internal and from WAO) have been helpful in raising questions over resources in the right places. These have been supplemented by a review of flood risk management skills in Local Authorities conducted by WLGA (in 2015) which was followed by additional training being provided.

There are also two-yearly Section 18 reports on implementation of flood and coastal erosion risk management in Wales. The new Flood and Coastal Erosion Committee will not only improve this process but will be able to comment independently on the resources in the Welsh Government, NRW and Local Authorities.

The Welsh Government consider these, collectively, strike a fair balance of review, scrutiny and advice.

Document is Restricted

Carl Sargeant AC/AM
Ysgrifennydd y Cabinet dros Gymunedau a Phlant
Cabinet Secretary for Communities and Children

Agenda Item 8



Llywodraeth Cymru
Welsh Government

Eich cyf/Your ref
Ein cyf/Our ref

Nick Ramsay, AM
Chair – Public Accounts Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

13 September 2017

Dear Nick Ramsay

PUBLIC ACCOUNTS COMMITTEE REPORT - August 2017

INQUIRY INTO THE REGULATORY OVERSIGHT OF HOUSING ASSOCIATIONS

RESPONSE TO THE REPORT

I have pleasure in enclosing a copy of the Welsh Ministers response to the above report which will be laid before the Table Office.

On behalf of the Cabinet, I would like to thank you and the Committee for the careful and considered way in which you undertook the investigation and produced the report.

Yours sincerely

Carl Sargeant AC/AM
Ysgrifennydd y Cabinet dros Gymunedau a Phlant
Cabinet Secretary for Communities and Children

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

Written Response by the Welsh Government to the Report of the Public Accounts Committee – Inquiry into the Regulatory Oversight of Housing Associations in Wales

We welcome the findings of the report and offer the following response to the 15 recommendations contained within it.

Recommendation 1

Given the significant amount of public money invested in the sector, and the reliance placed on effective regulation by lenders, we recommend that the Welsh Government's regulation team is routinely permitted to recruit externally and that the Welsh Government give consideration to how it might achieve the most appropriate balance of skills on its regulatory team.

Partially Accepted – Where internal recruitment does not identify candidates with the appropriate balance of skills, we will seek approval for public external recruitment in accordance with the Welsh Government current recruitment policy. It should be noted recruitment to two of the last three vacant posts have been external appointments. An appropriate balance of skills in the team will be addressed by either capacity building within the team or at the point of recruitment if particular skills gaps have been identified including by the Regulatory Board for Wales (see Recommendation 2).

Recommendation 2

Furthermore, in the interests of transparency we recommend that in its Annual Report to the Cabinet Secretary for Communities and Children, the Regulatory Board for Wales, should reflect on the current skills and capacity of the regulatory team, which in the spirit of co-regulation will enable other stakeholders to then scrutinise the Welsh Government's ability to regulate

Accepted – The Regulatory Board for Wales has responded to the recommendations of the report separately. The Board has confirmed its annual reports, the next due in the summer 2018, will include a section on the skills and capacity of the Regulatory Team.

Recommendation 3

The Regulatory Board for Wales should provide effective challenge to the Welsh Government's regulation team. Given the sensitive nature of some matters discussed by the Board, it was difficult for the Committee to determine how effective that challenge has been. The Committee recommends that the Welsh Government and the Regulatory Board for Wales consider how more openness and transparency can be brought into how they work together

Accepted - The Regulatory Board for Wales has responded to the recommendations of the report separately. The Board will consider the issue of further openness and transparency this year with the intention of providing a summary of specific areas of challenge in their annual report as well as continuing to publish summaries, where the discussions are not confidential in nature, of its Board meetings which reference how the Board engages and challenges the regulation team..

Recommendation 4

We recommend that the Welsh Government make provision for the availability of clear and comparable data sets to assist tenants in determining and challenging the

Doc1

position and policies of their Housing Association. We were impressed by the approach taken in this regard by the Scottish Housing Regulator and would urge the Welsh Government to take a similar approach.

Accepted - The Welsh Government will work collaboratively with the sector and key stakeholders, in particular tenants, to ensure appropriate data available by October 2018. As the data set for Wales is developed, we will ensure relevant learning from Scotland is incorporated. Please also see Recommendation 9.

Recommendation 5

Given the reliance on self-evaluation within the regulatory process and having heard feedback from tenants that the system is not always robust or accurate, we recommend the Welsh Government provide reassurances that it is satisfied that tenants' views will be adequately captured and reflected in the future and closely monitors the new tenant engagement arrangements being undertaken by TPAS Cymru.

Accepted - Effective and appropriate tenants involvement is a requirement of the performance standards (PS2) set out in the revised regulatory framework and will continue to form a key focus of the work of the regulation team. Any issues with the robustness of this work will be highlighted by the review of the regulatory framework programmed for early 2018. In addition, the new tenant engagement arrangements being undertaken by TPAS Cymru are subject to close monitoring by the Making It Work group set up and chaired by the Regulatory Board. The overall impact of the new tenant engagement arrangements will be formally reviewed by the Regulatory Board in March 2018.

Recommendation 6

We recognise the importance of making a clear distinction between transparency and scrutiny, with the former being necessary but not sufficient to achieve the latter) and we recommend that the Welsh Government should place a requirement on each Housing Association to be able to demonstrate to the Regulatory Team how they empower their tenants to scrutinise their performance. We believe this should go beyond simply publishing information and enable different Housing Associations to react to their local circumstances requiring them to be proactive in their approach. These steps should be integral to demonstrating effective and appropriate tenant involvement as part of the Performance Standard.

Accepted - Tenant scrutiny of housing association performance is intrinsic to Performance Standard (PS2). This will continue to be a key focus for the work of the regulation team. Any issues with the robustness of this work will be highlighted by the review of the regulatory framework proposed for early 2018.

Recommendation 7

We note the Welsh Government's consideration of the payment of board members as part of its wider view of regulation. We recommend that Welsh Government give considerations to enabling housing associations to determine whether they pay their board members or not, and housing associations are given responsibility for setting that pay in a manner that is open and transparent. Payment to Board Members should also be appropriately disclosed in the Annual Accounts of Housing Association.

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Accepted - The Cabinet Secretary will give early consideration to enabling housing associations to determine whether they pay their board members or not. It is anticipated a position will be set out in December 2017.

Housing association responsibilities in respect of payment of board members and disclosure of such payments to named individuals are set out in the Community Housing Cymru's Code of Governance (*CHC Code B2.1*). Compliance with the code is a requirement of the new performance standards (PS 1) and is therefore a key focus of the work of the regulation team.

Recommendation 8

We welcome the forthcoming review of governance within the sector and would urge the Welsh Government to work closely with Community Housing Cymru as it updates its Code of Governance in light of the review's findings.

Accepted - The Welsh Government is already working closely with sector and tenant representatives through the steering group set up to guide the regulatory board's review of governance and will continue to do so. The findings of the review of governance will inform CHC's update of its code of governance. The review of governance will be completed by March 2018.

Recommendation 9

We recommend that Welsh Government consider putting in place mechanisms for regular reporting and benchmarking of performance information to provide assurances on how well the sector is performing. We further recommend that this information should be available from a central website, along with other datasets as noted in Recommendation 4.

Accepted – Benchmarking of sector performance will form part of the collaborative work set out in response to recommendation 4. It is our intention that data will be accessible from a single platform, potentially the Welsh Government website.

Recommendation 10

We recommend that any deregulation of the sector necessary to reverse the ONS decision is proportionate and ensures the Welsh Government, as Regulator, still has sufficient powers to protect the interests of stakeholders, in particular tenants

Accepted - It has been explicit in the development of the legislation to reduce regulatory controls that the regulatory reform should be the minimum required to achieve classification of the sector back into the private sector. It is anticipated the Bill will be introduced in October 2017. The new regulatory framework provides tools which ensure the maintenance of robust regulation.

Recommendation 11

We note the potential benefits of diversification. We believe that while diversification is needed to cross-subsidise affordable housing, there are serious risks to the sector if this is not managed effectively. While the ONS re-classification decision would warn against further Welsh Government control of how housing associations run their own affairs, we think there is a need for greater clarity on how the Welsh Government oversees diversification. This is particularly the case where it is undertaken by a non-registered social landlord subsidiary.

Accepted - The new regulatory framework aims to ensure that diversification risks are appropriately managed. This is a requirement of the new Performance Standards (PS 1, 3 and 8) and will continue to form a key focus for the work of the

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regulation team. Any issues regarding the robustness of this work will be highlighted by the review of the regulatory framework programmed for early 2018.

Recommendation 12

We recommend that the Sector Risks and Regulatory Expectations document should provide further detail on the Welsh Government's legitimate interest in non-RSL subsidiaries and outline scenarios that would cause concern to the Regulator.

Accepted - An enhanced commentary on this issue will be incorporated in the next iteration of the sector risk paper due in March 2018.

Recommendation 13

We further recommend that the Welsh Government carry out a review of current levels of diversification within the sector - the findings of which should be published.

Accepted - The Welsh Government will include a sector level summary assessment of this risk in the next iteration of the sector risk paper which is due in March 2018.

Recommendation 14

We have concerns regarding the impact the rise in interest rates would have on the housing sector in Wales. We recommend that the Regulator carries out an assessment of all housing associations capital and their level of exposures to risk and summarise their findings.

Accepted - The Welsh Government will include a sector level summary assessment of the risk of interest rate rises on association's capital funding in the next iteration of the sector risk paper which is due in March 2018. Individual discussions will be held with any RSL seen to be outside of the normal range of exposure to this risk.

Recommendations 15

Given the Welsh Government has no powers with regard the setting of senior management pay in the housing association, we recommend that Welsh Government re-emphasise and endorse importance of openness and transparency in relation to the setting of senior management pay across the public sector. We recommend the Welsh Government implements measures to ensure its Regulation Team has a key role in ensuring that the pay setting process is robust and that there is appropriate disclosure in the Annual Accounts of Housing Associations of senior management pay.

Accepted - Arrangements regarding the setting of senior management pay are covered in the CHC code of governance as is the requirement to disclose the Chief Executive's remuneration. Statutory accounts also require the publication of the emoluments of the highest paid executive and to publish the number of senior executives and officers in various pay bands as determined by the individual RSL. Compliance with the code is a requirement of the new performance standards (PS 1) and is therefore a key focus of the work of the regulation team.



Nick Ramsay AM
National Assembly for
Wales
Cardiff Bay
CF99 1NA

Dear Nick

Following the publication of the report this week by the Public Accounts Committee into the regulatory oversight of housing associations, I wanted to take this opportunity to thank you and the rest of the committee for your work as part of this inquiry.

As the membership body for housing associations, we found the inquiry to be a helpful and robust consideration of the regulation of the housing association sector, which is both vital to the provision of public services in Wales and to the Welsh economy, and we welcome the recommendations the committee has put forward in its report.

We agree with the overall conclusion of the report that the latest regulatory framework and the new regulatory judgements are important steps in improving the openness and transparency of the regulation of housing associations and we will be working closely with our members on the recommendations the committee has made.

Our response to the committee's report is available here: <http://bit.ly/2uXUuTw> and alongside our public response, I wanted to reassure you that we have already begun working on many of the areas the committee has highlighted. In particular, we take very seriously the need to improve the accessibility of information for tenants. We have already discussed this issue at our member networks, and we will now look to work closely with Welsh Government to ensure that recommendation is taken forward in a meaningful way.

Alongside this, CHC will be reviewing our Code of Governance in the coming months to ensure it continues to be a robust and useful guide for housing associations in light of the committee's findings and the Regulatory Board for Wales' ongoing review of governance in the sector. We expect to launch the revised code in March 2018 at our Governance Conference and we will be happy to share the updated code with you at that stage.



In the meantime, I am happy to discuss any of these issues or the wider work of housing associations with you at any time. Please don't hesitate to get in touch with any questions.

Kind regards

A handwritten signature in black ink, appearing to read 'Stuart Ropke', with a small horizontal line at the end.

Stuart Ropke
Chief Executive

Public Accounts Committee Inquiry into the Regulatory Oversight of Housing Associations

Response to the Report of the Public Accounts Committee August 2017

I am writing on behalf of the Regulatory Board for Wales (RBW) to respond to the Report of the Public Accounts Committee into the Regulatory Oversight of Housing Associations.

The RBW welcomes the Report's finding that "governance and regulation within the housing sector to be working well enough for housing associations to be granted more autonomy" and that "the new Regulatory Judgements are a step in the right direction" and the Public Accounts Committee view that housing associations "should do more to be open and transparent in their decisionmaking".

The RBW supports and welcomes the Public Accounts Committee's fifteen recommendations.

With reference to Recommendation 2, the RBW is pleased to confirm that we will include in our annual reports information on the skills and capacity of the Regulatory Team.

In relation to Recommendation 3, we will consider the issue of further openness and transparency this year with the intention of providing a summary of specific areas of challenge to the regulation team in our Annual Report and, where issues are not confidential in nature in our published summaries of our quarterly Board meetings.

Rather than responding individually to the recommendations, I am, in this response, keen to set out the RBW's response to key themes within the inquiry report.

Assurances provided to housing association tenants should apply to all social housing tenants

As set out in our submission to the Committee, the Regulatory Board is committed to ensuring that the Regulatory Framework's key principle of tenants being at the heart of regulation is a reality.

A number of the Committee's recommendations reference the importance of providing assistance to tenants to hold their landlords to account. As a key issue of principle, the Regulatory Board believes that assurances provided to the tenants of housing associations should apply to all social housing tenants, including local authority tenants.

We warmly welcome the Committee's vision of the availability of clear and comparable data sets to assist tenants in determining and challenging the position and policies of their Housing Association. The Board would like to see relevant data being available to all tenants of social housing – housing association and local authority tenants.

The Board similarly welcomes the priority given by the Committee to ensuring that tenants' views are adequately captured. Our arrangements with TPAS Cymru to capture the views of housing association tenants are being very actively monitored by the Making it Work Group which is chaired by myself as Regulatory Board chair. The Regulatory Board is highly committed to ensuring that these arrangements are effective in hearing the tenants' voice. The Board, however, remains very conscious that such assurance is not available to all tenants of social landlords. In the interests of fairness and a level playing field, the provision in respect of quality of landlord services should be expanded to cover local authority tenants.

The Board also welcomes the Committee's prioritisation of tenant scrutiny of housing association performance. We believe that the opportunity to undertake such scrutiny should also be available to tenants of local authorities.

The key important of good governance

The importance of good governance was a key theme of the Regulatory Board's submission to the Committee and prompted the Board's decision to prioritise an early review of governance within housing associations. The review is progressing under the leadership of a steering group, chaired by a member of the regulatory board and involving sector and stakeholder representatives. Close liaison with Community Housing Cymru is key to the review approach and the review findings will inform CHC's review of its Code of Governance. The review of governance will be completed by the end of March 2018.

Diversification

The Regulatory Board agrees that diversification brings potential benefits as well as risks. As independent organisations, we believe that decisions re diversification are the sole responsibility of autonomous housing association boards. However, there is a key role for regulation, through ongoing regulatory engagement, in ensuring good governance around those decisions, in particular, gaining assurance that housing associations understand the risks of such decisions and have the skills needed to take robust decisions.

The Board welcomes the Committee's recommendation that a review be undertaken of current levels of diversification and proposes, in the interests of openness, that up to date information on levels of diversification within the housing association sector should form a regular part of our Annual Report to the Cabinet Secretary. The Board has a particular interest in the impacts of diversification on tenants and will seek to ensure that this is considered as part of continuous regulatory assessment.

Independent input to the review of the Regulatory Framework

The effectiveness of the application of the Regulatory Framework will be the subject of review in the New Year. The Board will be very actively involved in that Review and, to ensure its robustness, have agreed that the Review should include independent objective input reporting directly to the Regulatory Board.

Helen White
Chair
Regulatory Board for Wales

Agenda Item 10

Shan Morgan
Ysgrifennydd Parhaol
Permanent Secretary



Llywodraeth Cymru
Welsh Government

Nick Ramsay AM
Chair, Public Accounts Committee
National Assembly for Wales
Cardiff Bay
CF99 1NA

17 August 2017

Dear Nick,

The Welsh Government will be publishing a report on senior management pay in the Welsh public sector tomorrow.

The report is in response to a recommendation made by the Public Accounts Committee of the Fourth Assembly. A copy is attached for information.

Yours sincerely

Shan Morgan

Shan Morgan
Ysgrifennydd Parhaol/ Permanent Secretary
Llywodraeth Cymru/ Welsh Government



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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

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We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding

Senior management pay across the Welsh public sector 2015 – 2016

Introduction

1. This report has been prepared to help improve the transparency of senior management pay across the devolved public sector in Wales. This follows the recommendation by the Public Accounts Committee (PAC) of the National Assembly for Wales that the Welsh Government collate information on senior pay across the Welsh public sector.
2. The organisations included in the report are health bodies, local authorities, national park authorities, fire and rescue authorities, police, other organisations that are funded by the Welsh Consolidated Fund or sponsored by the Welsh Government and, where the information is available, institutes of higher education.
3. The information has been taken from the published annual accounts of the organisations, pay policy statements published by the organisations and a report on senior management pay compiled by the Wales Audit Office (WAO) for the PAC in February 2014. The organisations included mirror those included in the WAO's report, with the exception of Police and Crime Commissioners and the addition of institutes of higher education.
4. The intention of this report is to present senior management pay information in one place. The report does not seek to analyse or make conclusions or recommendations.

Senior management remuneration disclosure requirements

5. All public bodies are required to report within their annual financial statements or remuneration report the pay of their senior staff. The exact nature of the information required to be reported varies between different sectors according to the relevant statutory requirements and the associated accounting guidance.
6. National Health Service (NHS) bodies and the bodies within central government (e.g. the Welsh Government and its sponsored bodies) prepare their accounts in line with the guidance provided in the Government Financial Reporting Manual (FRoM). The FRoM requires the production of a directors' remuneration report alongside the annual financial statements.
7. The requirements of the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on Local Authority Accounting apply to many public bodies, e.g. local authorities, police forces, national parks and fire and rescue authorities. These bodies are required to produce annual financial statements that contain certain information about the remuneration of senior managers but are not required to produce a remuneration report.

8. Disclosure requirements for institutes of higher education are set out in the Statement of Recommended Accounting Practice (SORP) supplemented by the annual Accounts Directions issued by the relevant funding body.
9. Many of the organisations included in the report also produce an annual pay policy statement. This has been a requirement for local authorities (county and county borough councils and fire and rescue authorities in Wales) under section 38 of the Localism Act 2011 since the financial year 2012-13. More recently (2015-16), the Welsh Government (as an employer) and other Welsh public sector bodies have produced pay policy statements in line with the Welsh Government's principles around the transparency of reporting senior remuneration.¹

Chief executive salary trend

10. This section of the report shows the salaries of chief executives (or their equivalent) across the Welsh public sector. Where the information is available, the chief executive salary in 2015-16 is compared to the chief executive salary in the previous two financial years.
11. The information provided is based on gross annual salary and excludes employer's pension contributions, expenses and benefits in kind. Where a post has only been filled for part of a year, this is shown and explained in a footnote. Where the post has been filled by more than one person the remuneration has been added together and is explained in a footnote. The information is presented in the same format as it is presented in the organisation's accounts, i.e. as a specific salary or a salary range.

Health body	2013-14	2014-15	2015-16
Abertawe Bro Morgannwg University Health Board	£190,000	£200,000	£210,000
Aneurin Bevan University Health Board	£185,000	£185,000	£195,000
Betsi Cadwaladr University Health Board	£200,000	£200,000	£200,000
Cardiff and Vale University Health Board	£185,000	£190,000	£210,000
Cwm Taf University Health Board	£170,000	£170,000	£170,000
Hywel Dda University Health Board	£170,000	£170,000	£170,000
Public Health Wales NHS Trust	£140,000	£155,000	£150,000
Powys Teaching Health Board	£130,000	£135,000	£155,000
Velindre NHS Trust	£130,000	£130,000	£130,000
Welsh Ambulance Services NHS Trust	£120,000	£120,000	£152,500

Local government body	2013-14	2014-15	2015-16
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¹ The Welsh Government's transparency principles were published in December 2015 - <http://gov.wales/topics/people-and-communities/communities/publications/transparency-of-senior-remuneration/?lang=en>.

Anglesey County Council (Isle of)	£141,000	£141,160	£116,000 ²
Blaenau Gwent County Borough Council	£109,625	£111,518	£95,630 ³
Bridgend County Borough Council	£125,246	£128,169	£125,841
Caerphilly County Borough Council	£137,000	£137,000	£137,000 ⁴
Cardiff County Council	£170,000	£166,937	£170,000
Carmarthenshire County Council	£163,470	£168,938	£169,025 ⁵
Ceredigion County Council	£108,226	£108,226	£108,226
Conwy County Borough Council	£108,713	£111,573	£114,435
Denbighshire County Council	£132,411	£132,144	£134,750
Flintshire County Council	£131,233	£131,233	£131,233
Gwynedd Council	£108,264	£101,984 ⁶	£103,805
Merthyr Tydfil County Borough Council	£111,100	£115,192	£114,227
Monmouthshire County Council	£110,000	£110,000	£110,000
Neath Port Talbot County Borough Council	£134,253	£133,738	£134,253
Newport City Council	£134,638	£134,638	£134,638
Pembrokeshire County Council	£174,579	£144,998	£131,013 ⁷
Powys County Council	£133,000	£133,000	£133,000
Rhondda Cynon Taf County Borough Council	£142,000	£142,000	£142,000 ⁸
Swansea (City and County of)	£140,000	£140,000	£140,000
Torfaen County Borough Council	£109,528	£111,278	£111,278
Vale of Glamorgan Council	£127,133	£126,950	£116,539
Wrexham County Borough Council	£113,000	£117,000	£121,000

National Park Authority	2013-14	2014-15	2015-16
Brecon Beacons	£75,000	£75,000	£77,000
Pembrokeshire	£76,000	£76,000	£77,000
Snowdonia	£79,000	£79,000	£77,000

Fire and Rescue Authority	2013-14	2014-15	2015-16
Mid and West Wales	£134,812	£131,917	£144,229
North Wales	£120,911	£119,835	£121,081
South Wales	£126,000	£126,000	£128,000

Police Force	2013-14	2014-15	2015-16
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² Includes salary of Chief Executive who left on 31/05/15 (£24,000) and Chief Executive who started on 01/06/15 (£92,000).

³ Chief Executive retired on 29/02/16 and the post was permanently deleted from the staffing structure.

⁴ Caerphilly – the Chief Executive was suspended in March 2013. The Deputy Chief Executive took over as Acting Chief Executive but was also suspended in July 2013. The Acting Chief Executive was paid £132,920 in 2015/16. The Interim Chief Executive was paid £142,524 in 2015/16.

⁵ Salary includes 'fees and allowances' but these are not specified so have not been removed as they have for the other figures.

⁶ Includes salary of Chief Executive who left on 31/09/14 and Chief Executive who started on 01/10/14.

⁷ Annualised figure. The Chief Executive took up post on 01/08/2015 – salary between then and 31/03/2016 was £87,342. The remuneration of the Acting Head of Paid Service was £134,998.

⁸ Includes salary of Chief Executive who left on 31/08/15 (£59,000) and Chief Executive who started on 01/09/15 (£83,000).

Dyfed Powys	£125,020	£126,237	£127,465
Gwent	£133,068	£135,202	£136,567
North Wales	£143,934	£138,885	£141,444
South Wales	£155,235	£156,725	£157,648

Body funded by the Welsh Consolidated Fund	2013-14	2014-15	2015-16
Auditor General for Wales	£151,500	£153,000	£153,000
National Assembly for Wales Commission	£140,000 - £145,000	£145,000 - £150,000	£145,000 - £150,000
Public Services Ombudsman for Wales	£120,000 - £130,000	£115,000 - £125,000 ⁹	£140,000 - £145,000
Welsh Government	£155,000 - £160,000	£160,000 - £165,000	£160,000 - £165,000

Welsh Government Sponsored Bodies	2013-14	2014-15	2015-16
Arts Council of Wales	£93,380	£93,380	£95,248
Care Council for Wales	£95,000	£95,000	£95,000
Higher Education Funding Council Wales	£120,000	£120,000	£120,000
Local Democracy and Boundary Commission for Wales	£46,550 - £56,900	£46,550 - £56,900	£46,550 - £56,900
National Library of Wales	£60,000 ¹⁰	£90,000	£74,750 ¹¹
National Museum Wales	£95,000	£95,000	£95,000
Natural Resources Wales	£140,000	£140,000	£145,000 - £150,000
Sport Wales	£79,170	£89,483	£92,500

Commissioners¹²	2013-14	2014-15	2015-16
Children's Commissioner for Wales	£90,000	£85,000	£85,000
Older People's Commissioner for Wales	£93,000	£90,000	£90,000
Welsh Language Commissioner	N/A	£95,000 - £100,000	£95,000 - £100,000

Inspectorates	2013-14	2014-15	2015-16
Estyn	£110,000	£110,000	£90,000

Higher Education Body¹³	2013-14	2014-15	2015-16
Aberystwyth University	£219,000	£224,000	£237,000 ¹⁴

⁹ The current Ombudsman has been in post since 01/08/14. The disclosure for 2014-15 includes the salary of the acting part time Ombudsman for the period of 01/04/14 to 31/07/14 (£25-30,000) and the Ombudsman for the period of 01/08/14 to 31/03/15 (£90-95,000). The disclosure for 2013-14 includes the salary of the previous Ombudsman for the period of 01/04/13 to 30/11/13 (£90-95,000) and the acting part time Ombudsman for the period of 02/12/13 to 31/03/14 (£30-35,000).

¹⁰ The post was vacant from 01/04/13 to 31/07/13.

¹¹ Includes salary of Librarian who left on 31/08/15 (£37,500) and Librarian who started on 02/11/15 (£37,250). Annual salary is £90,000.

¹² The Future Generations Commissioner was appointed in 2016 so is not included in this report.

¹³ Vice-Chancellor salary trend is presented by institutes of higher education as gross annual salary including bonuses, non-pensionable allowances, benefits in kind, payments in lieu of annual leave or notice but excluding pension contributions.

Bangor University	£223,000	£228,000	£245,000
Cardiff University	£240,000	£249,000	£253,000
Cardiff Metropolitan University	£229,058	£239,812	£276,950 ¹⁵
University of South Wales	£191,000	£222,000	£225,000
Swansea University	£244,000	£247,000	£251,000
University of Wales Trinity St David ¹⁶	£218,000	£226,000	£232,000
Wrexham Glyndwr University	£227,090	£301,548 ¹⁷	£61,667 ¹⁸

Gender

12. The table below shows the gender of the chief executives (or their equivalents) across the Welsh public sector. It also includes a comparison with the position in 2012-13 (as reported by the WAO for the PAC) where the bodies are comparable. Please note that the gender of university vice chancellors was not included in the WAO report so figures for 2012-13 are not included here.

Sector	2012-13		2015-16	
	Male	Female	Male	Female
NHS Bodies	8	2	5	5
Local Authorities	18	4	19	3
National Park Authorities	3	0	3	0
Fire and Rescue Authorities	3	0	3	0
Police Forces	4	0	4	0
Welsh Consolidated Fund Bodies	3	1	3	1
Welsh Government Sponsored Bodies, Commissioners and Inspectorates	10	4	7	6
Higher Education Bodies	Not available	Not available	5	3
Total	49	12	49	18
%	80.3	19.7	73	27

Pay ratios

13. Bodies that report under the FReM are required to include the ratio between the median staff pay (the salary of the person in the middle of a

¹⁴ In addition, the Acting Vice-Chancellor was paid a salary of £61,000 and non-pensionable allowance of £14,000 for the period from 01/02/16 to 31/07/16.

¹⁵ Includes £29,230 paid to the Vice-Chancellor on retirement in lieu of annual leave.

¹⁶ As the Vice-Chancellor of the University of Wales Trinity St David is also Vice-Chancellor of the University of Wales, the University's annual accounts note that 20% of the Vice-Chancellor's emoluments are recharged to the University of Wales.

¹⁷ The University's annual accounts show that an additional £189,435 was paid to an Interim Vice Chancellor, employed through an agency, between February 2015 and 31/07/2015.

¹⁸ Current Vice Chancellor in post from 01/04/16. University financial year ends on 31 July so this is the salary for four months from 01/04/16 to 31/07/16. The University's annual accounts show that an additional £1,414 in relocation expenses was paid. Additionally, £270,581 was paid to an Interim Vice Chancellor employed through an agency between 01/08/15 and 31/03/16.

list of all employees' pay) and the highest paid 'director' (based on the mid-point of the banded remuneration for that director). These are shown with the 'staff pay multiplier' being the ratio for 2015-16.

14. The Welsh Government's transparency principles recommend that pay policy statements should include the relationship between the remuneration of senior posts and that of the lowest paid employees.
15. The majority of the organisations listed below have used the Chief Executive's actual salary, or the mid point of the Chief Executive's salary band compared with the median salary. Exceptions are explained in footnotes. All information is taken from annual accounts for 2015-16.
16. Institutes of higher education do not publish this information so it has not been included here.

Health body	Highest paid director band (£000)	Median pay	Staff pay multiplier
Abertawe Bro Morgannwg University Health Board	£210,000	£28,180	7.45:1
Aneurin Bevan University Health Board	£195,000	£26,064	7.48:1
Betsi Cadwaladr University Health Board	£200,000	£27,760	7.20:1
Cardiff and Vale University Health Board	£210,000	£28,094	7.47:1
Cwm Taf University Health Board	£170,000	£27,369	6.21:1
Hywel Dda University Health Board	£170,000	£26,041	6.53:1
Public Health Wales NHS Trust	£175,000	£30,057	5.82:1
Powys Teaching Health Board	£155,000	£25,948	5.97:1
Velindre NHS Trust	£130,000	£26,929	4.83:1
Welsh Ambulance Services NHS Trust	£152,500	£30,214	5.05:1

Local government body¹⁹	Highest paid director band	Median pay	Staff pay multiplier
Anglesey County Council (Isle of)	£116,000	£17,929	6.47:1
Blaenau Gwent County Borough Council	£109,693	£20,465	5.36:1
Bridgend County Borough Council	£125,841	£19,742	6.37:1 ²⁰
Caerphilly County Borough Council	£142,524	£19,742	7.2:1
Cardiff County Council	£170,000	£20,849	8:1
Carmarthenshire County Council	£169,025	£20,944	8.07:1
Ceredigion County Council	£108,226	£16,054	6.8:1
Conwy County Borough Council	£114,435	£17,714	6.46:1
Denbighshire County Council	£134,750	£21,530	6.26:1
Flintshire County Council	£131,233	£16,969	7.73:1

¹⁹ Local authorities are not required to publish median pay, but the majority do. In the few instances where local authorities have not published median pay, the multiplier has been applied to the salary of the highest paid director to work out the median salary.

²⁰ The ratio reported in the annual accounts is 6.64:1 – this is because the Chief Executive's salary includes returning officer fees of £5250. These have been removed in the table above.

Gwynedd Council	£103,805	£19,622	5.29:1
Merthyr Tydfil County Borough Council	£142,669	£25,296	5.64:1 ²¹
Monmouthshire County Council	£110,000	£20,253	5.43:1
Neath Port Talbot County Borough Council	£134,253	£20,849	6.44:1
Newport City Council	£134,638	£20,713	6.5:1
Pembrokeshire County Council	£134,998 ²²	£17,372	7.77:1
Powys County Council	£133,000	£19,048	6.97:1
Rhondda Cynon Taf County Borough Council	£142,000	£19,742	7:1
Swansea (City and County of)	£140,000	£21,783	6.43:1
Torfaen County Borough Council	£111,278	£18,376	6.05:1
Vale of Glamorgan Council	£116,539	£19,423	6:1
Wrexham County Borough Council	£121,000	£19,055	6.35:1

National Park Authority	Highest paid director band	Median pay	Staff pay multiplier
Brecon Beacons	£77,000	£22,212	3.5:1
Pembrokeshire	£77,000	£18,376	4.16:1
Snowdonia	£77,000	£23,000	3.4

Fire and Rescue Authority	Highest paid director band	Median pay	Staff pay multiplier
Mid and West Wales	£144,229	£29,345	4.91:1
North Wales	£127,859	£29,345	4.36:1
South Wales	£128,000	£28,000	4.57:1

Police Forces	Highest paid director band	Median pay	Staff pay multiplier
Dyfed Powys	£132,171	£35,254	3.75:1
Gwent	£147,897	£34,779	4.25:1
North Wales	£144,721	£31,657	4.6:1
South Wales	£157,648	£31,921	5.2:1

Body funded by the Welsh Consolidated Fund	Highest paid director band	Median pay	Staff pay multiplier
Auditor General for Wales	£153,000	£43,850	3.49:1
National Assembly for Wales Commission	£145,000 - £150,000	£31,031	4.75:1
Public Services Ombudsman for Wales	£140,000 - £145,000	£40,218	3.5:1

²¹ Pension contributions appear to have been included in both the Chief Executive and median salary.

²² This is the salary of the Acting Head of Paid Service, in the absence of a Chief Executive for the full year.

Welsh Government	£195,000 - £200,000	£34,750	5.8:1
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Welsh Government Sponsored Bodies	Highest paid director band	Median pay	Staff pay multiplier
Arts Council of Wales	£95,428	£31,700	3:1
Care Council for Wales	£100,000	£30,036	3.32:1
Higher Education Funding Council Wales	£120,000	£40,411	2.97:1
Local Democracy and Boundary Commission for Wales	Not available	Not available	Not available
National Library of Wales	£90,000	£23,003	3.91:1
National Museum Wales	£95,000	£23,917	4.1:1
Natural Resources Wales	£145,000 - £150,000	£28,215	5.2:1
Sport Wales	£92,500	£24,620	3.8:1

Commissioners	Highest paid director band	Median pay	Staff pay multiplier
Children's Commissioner for Wales	£85,000	£34,750	2.46:1
Older People's Commissioner for Wales	£90,000	£35,500	2.53:1
Welsh Language Commissioner	£95,000 - £100,000	£34,750	2.81:1

Inspectorates	Highest paid director band	Median pay	Staff pay multiplier
Estyn	£90,000	£60,050	1.49:1

Comparisons – directors and senior managers

17. The WAO's report for the PAC showed the number of directors and senior managers who earn more than £60,000 (£50,000 for some sectors) across the Welsh public sector within £25,000 pay bands where this information was available. This information was not provided by all organisations and those organisations that did provide the information used several different formats. As such, the data has not been included in this report.

**Welsh Government
July 2017**

Agenda Item 11

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted

Archwilydd Cyffredinol Cymru
Auditor General for Wales

Audit of Cardiff and Vale University Health Board's Contractual Relationships with RKC Associates Ltd and its Owner

I have prepared this report in accordance with Paragraph 19 of Schedule 8 to the Government of Wales Act 2006, which provides that if I think that it would be in the public interest to bring to the public's attention a matter coming to my notice in the course of an examination of auditable accounts, I may prepare a report on that matter. I am required, as soon as practicable after preparing such a report to lay the report before the National Assembly. In the course of undertaking my audit of the accounts of Cardiff & Vale University Health Board, I identified certain matters which I think are in the public interest and I am now bringing these to the public's attention through this report.

The Wales Audit Office team which carried out this audit comprised Alison Butler and Dave Rees under the direction of John Herniman.

Huw Vaughan Thomas
Auditor General for Wales
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Mae'r ddogfen hon hefyd ar gael yn Gymraeg.

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Summary report

Summary

- 1 On 1 October 2014, Cardiff and Vale University Health Board's (the UHB's) Director of Workforce and Organisational Development was seconded to another NHS organisation as an acting chief executive at short notice. As a consequence, the UHB experienced a reduction in its overall HR leadership capacity.
- 2 Between 1 December 2014 and 31 March 2016 the UHB entered into three contracts for the provision of HR consultancy services with a private company RKC Associates Ltd (RKC Associates), in order to address the shortfall in the HR leadership capacity. The owner and sole director of RKC Associates during this period was Ms Chana, who was subsequently appointed as the UHB's Director of Workforce and Organisational Development. The duration and specified contract deliverables for these contracts is set out in [Appendix 1](#). Ms Chana terminated her appointment as a director of RKC Associates on 28 October 2016.
- 3 Between 11 November 2014 and 31 March 2016, Ms Chana carried out 264.5 days of HR consultancy work at the UHB and the UHB paid RKC Associates £290,809 + VAT in respect of the service provided. A breakdown of the payments to RKC Associates is set out in [Appendix 2](#).
- 4 On 30 September 2015, the UHB's Director of Workforce and Organisational Development, who had been on secondment to another NHS organisation, left the employment of the UHB and the UHB commenced a recruitment exercise to appoint a replacement. The exercise proved unsuccessful as each of the shortlisted candidates withdrew for various reasons.
- 5 In January 2016, Ms Chana applied for the position, albeit the position had not been re-advertised. The UHB arranged an assessment panel to consider Ms Chana's application and, following the assessment panel meeting, Ms Chana was offered the position on a one-year fixed-term contract on an annual salary of £150,000. As the proposed salary was in excess of the Welsh Government approved salary range for NHS Executive Directors, the offer of employment was made subject to approval of the salary by the Welsh Government. This approval was received on 21 April 2016, albeit that Ms Chana commenced her employment on 6 April 2016. Ms Chana voluntarily left her employment at the UHB at the end of November 2016.
- 6 As part of my audit of the UHB's accounts, I became aware of the payments made to RKC Associates for HR consultancy services under the three consultancy contracts referred to in [paragraph 2](#) and that two of these contracts had been awarded without competitive tendering. Given the size of the contractual payments and the failure to seek competition for the contracts, I decided to undertake a review of the procurement, award and management of the contracts.

- 7 During the course of the review a number of serious issues were identified relating to the consultancy contracts and it was necessary to extend the scope of the review to examine the procurement process for the third consultancy contract and the recruitment process that led to the appointment of Ms Chana as the UHB's Director of Workforce and Organisational Development.
- 8 It is important to note that this review did not seek to assess the quality of the work undertaken by Ms Chana. My conclusions relate to the actions of officers and former officers of the UHB and it should not be inferred that the work undertaken by Ms Chana was not delivered to an appropriate standard.
- 9 During the course of my audit review, the UHB's Chief Operating Officer, Ms Casey, became the UHB's Executive Programme Director Unscheduled Care. However, in this report Ms Casey is referred to as the Chief Operating Officer, as this was the role she held at the time to which the events referred to in this report relate. Ms Casey left the employment of the UHB in May 2017.
- 10 The audit has been complex and protracted. It proved extremely difficult to obtain a clear position of the facts relating to the matters subject to audit. UHB officers and former officers provided conflicting and inconsistent accounts and there was a tendency for them to blame each other for the failings identified in the report. My requests for information were not dealt with in a satisfactory manner and documents I was informed did not exist were produced several months after they were requested. The UHB did not keep an adequate audit trail of how key decisions referred to in this report were made and, in consequence, I still have doubt as to the level of involvement some officers had in decisions to enter into contracts with RKC Associates.
- 11 The UHB's Chief Operating Officer, Ms Casey, maintained throughout the audit that the UHB's former Chief Executive, Professor Cairns, was responsible for negotiating and agreeing the award of contracts to RKC Associates; and other UHB officers also considered that he was involved in the decisions to award the contracts. Professor Cairns, however, states that he did not negotiate the contracts or authorise the contract awards, and I have seen no documentary evidence of his involvement. I was therefore unable to conclude on the extent of Professor Cairns' involvement in these matters.

- 12 Ms Casey considers she has been unfairly criticised on the basis that she considers the deficiencies identified were collective, corporate failings and that the key decisions relating to the award of consultancy contracts to RKC Associates were taken by Professor Cairns. However, as set out in paragraphs 31, 47, 48, 145 and 146, the documentary evidence available to me shows that Ms Casey was integrally involved in these decisions. Ms Casey signed two consultancy contracts in November 2014 and June 2015 between the UHB and RKC Associates which had not been procured in accordance with the UHB's procurement rules. In signing these documents Ms Casey accepted responsibility for the decisions to enter into the contracts which included responsibility for how the contracted services had been procured. Ms Casey was also involved in a tender process for a third contract despite the fact that she was already utilising RKC Associates to deliver the advertised contract both before and whilst the procurement process was progressing.
- 13 The detailed findings of my audit are set out in this report. My main conclusions are as follows:
- a The way in which the UHB procured and managed HR consultancy contracts awarded to RKC Associates fell well short of the standard that the public has a right to expect of a public body:
- the UHB failed to comply with its own procurement procedures when it awarded consultancy contracts to RKC Associates in November 2014 and June 2015 and in consequence both the contracts and payments made under them are potentially unlawful;
 - the award of consultancy contracts to RKC Associates breached public procurement rules;
 - the UHB failed to undertake due diligence checks of RKC Associates resulting in the UHB being exposed unnecessarily to financial and reputational risk;
 - the UHB was in breach of its own Standing Financial Instructions when it agreed contracts with RKC Associates which had been drafted by the owner of RKC Associates;

- the UHB appointed the owner of RKC Associates to deliver consultancy projects, but the UHB utilised her as a senior member of staff and, in consequence, has potentially over-claimed VAT amounting to £58,162;
 - as the officer who signed the contracts with RKC Associates in November 2014 and June 2015, the UHB’s Chief Operating Officer had a duty to ensure proper process had been followed. The failure to do so has cast doubt on whether the decisions to award these contracts were based entirely on valid considerations; and
 - the UHB did not exercise effective financial monitoring of its contracts with RKC Associates, with payments exceeding the contracted value and contractual expenses not being verified.
- b The way in which an HR consultancy contract was awarded to RKC Associates in February 2016, along with the actions of key decision-makers, compromised the integrity of the procurement process:
- the UHB embarked upon a procurement process for a contract and invited and evaluated tenders for that contract, despite the fact that RKC Associates had been engaged in advance of the tender process;
 - the robustness and integrity of the advertised procurement process was compromised in several key respects and the UHB’s Chief Operating Officer participated in the process despite knowing that RKC Associates had already been engaged in advance of the procurement process commencing;
 - the Procurement Department failed to keep adequate documentation of the procurement process; and
 - the UHB delayed seeking formal written approval for the fixed-term appointment of a new Director of Workforce and Organisational Development, resulting in the UHB incurring unnecessary expenditure on a consultancy contract.

- c The process followed by the UHB that led to the appointment of the owner of RKC Associates to the position of Director of Workforce and Organisational Development in April 2016 was fundamentally compromised, lacked transparency and was poorly documented:
- it is unclear why the UHB decided to proceed with a recruitment process for a Board level position with only a single candidate who had not applied for the position when it was originally advertised;
 - the recruitment process was poorly documented and, as a consequence, it is not clear when the person who had been overseeing the recruitment exercise became a candidate;
 - the integrity of the recruitment process was compromised because the sole candidate had access to some of the assessment questions in advance of being interviewed for the position; and
 - the information provided to the Board and its Remuneration and Terms of Service Committee regarding the appointment was inaccurate, incomplete and inconsistent.

Detailed findings

The way in which the UHB procured and managed HR consultancy contracts awarded to RKC Associates fell well short of the standard that the public has a right to expect of a public body

The UHB failed to comply with its own procurement procedures when it awarded consultancy contracts to RKC Associates in November 2014 and June 2015 and in consequence both the contracts and payments made under them are potentially unlawful

The award of a contract to RKC Associates in November 2014 with a value of £114,625 + VAT breached the UHB's Standing Financial Instructions and Scheme of Delegation and Earned Autonomy Framework

- 14 In November 2014, the UHB entered into a contract with a private company, RKC Associates, for the provision of HR consultancy services for a six-month period commencing on 1 December 2014. The contract took the form of a 'proposal for consultancy support' document that was sent by the owner and sole director of RKC Associates, Ms Chana, to the UHB's Chief Operating Operator, Ms Casey, on 22 October 2014. Whilst the UHB has been unable to locate a signed copy of this document, contemporaneous e-mails between the UHB and Ms Chana confirm that the terms set out in the proposal document represented the agreed contractual terms, (supplemented by agreed contractual expense rates that were specified within those e-mails). Ms Casey also recalls signing the contract.
- 15 The proposal document specified that RKC Associates would provide the UHB with:
- 'Senior level interim support to the Directorate of Workforce and OD reporting to the Chief Operating Officer for a period of six months starting 1st December 2014, renewable by mutual agreement;
 - two high priority areas within the [Workforce and OD] Directorate require specific reviews with the aim of making these more efficient and effective:
 - the recruitment process; and
 - the managing attendance process.

Other relevant priority areas may arise following initial review. These will be undertaken by agreement.'

- 16 The proposal document set out that the required services would be delivered in three phases as follows:

Phase 1: Analysis, review and diagnosis (December 2014 to January 2015)

Phase 2: Action planning workshops and plan approval (January 2015 to February 2015)

Phase 3: Plan implementation (March 2015 to May 2015).

- 17 The document also stated that Ms Chana is 'the key consultant identified for providing the senior level interim support as a self-employed management consultant' but that 'RKC Associates may be able to provide other interims as necessary'. The contractual rate payable to RKC Associates for the services to be provided was specified as £1,000 per day, plus 'reasonable expenses' + VAT.
- 18 The UHB made payments to RKC Associates of £114,625 + VAT for 104 days of HR consultancy work undertaken by Ms Chana and associated contractual expenses between 11 November 2014 and 31 May 2015, (albeit the start date of the contract was 1 December 2014).
- 19 The Chief Operating Officer, Ms Casey, states that she was asked by the then Chief Executive, Professor Adam Cairns (Professor Cairns), to: 'just get someone in' to provide cover within the Workforce and Organisational Development Department during the absence on secondment of the UHB's Director of Workforce and Organisational Development. In view of this instruction she contacted Ms Chana who she had previously worked with at two other NHS organisations. Ms Chana expressed an interest in a possible role at the UHB. Ms Casey subsequently arranged a meeting of Ms Chana and the UHB's Nursing Director and a separate meeting of Ms Chana and the UHB's Chief Executive, Professor Cairns. Ms Casey was present at both of these meetings. Ms Casey recalls that the purpose of the meetings was 'for [the UHB] to outline the nature of the role required, to consider whether [Ms Chana] may be a suitable candidate and for [Ms Chana] to consider whether she may be interested in the role'. Ms Casey states that: 'the conclusion of the meetings was that both parties would consider the matter further before any decision was made'. Ms Chana has told me that the then Chief Executive asked her in this meeting to submit a proposal for her possible engagement by the UHB.

Standing Financial Instructions and Scheme of Delegation and Earned Autonomy Framework

- 20 NHS bodies must act fairly and transparently when procuring works, goods and services and must ensure that they are able to demonstrate that decisions are made in accordance with UHB policy, or where a decision is made to deviate from policy, there is good reason to do so. Welsh NHS bodies are required under the National Health Service (Wales) Act 2006 to adopt Standing Financial Instructions (SFIs) for the regulation of their financial proceedings and business. The Welsh Government has issued model SFIs to Welsh NHS bodies and these SFIs were adopted by the UHB. The SFIs, together with Standing Orders (SOs), a scheme of decisions reserved for the Board and a Scheme of Delegation and Earned Autonomy Framework provide the regulatory framework for the business conduct of the UHB. The UHB's SFIs set out the rules which the UHB will follow when undertaking procurements. The Scheme of Delegation and Earned Autonomy Framework sets out who the UHB has empowered to make procurement and contractual decisions. If an NHS body fails to comply with its adopted SFIs, SOs and Scheme of Delegation and Earned Autonomy Framework without good reason, it has the potential to render decisions made and any associated expenditure contrary to law.
- 21 The UHB did not follow the requirements of its SFIs when it entered into a contract with RKC Associates for consultancy services in November 2014. The SFIs state that: 'procurement of all works goods and services in excess of £25,000 exclusive of VAT is to be by competitive tendering'. (SFIs schedule 1, para 4.1). They also state that: 'the LHB should invite a minimum of four companies to tender for contracts of value between £25,000 and the prevailing OJEU threshold'. (SFIs schedule 1, para 5.1). The contract, which had a value of £114,625 + VAT, was not subjected to competition and no tenders were sought from potential suppliers.
- 22 The SFIs set out exceptional circumstances where competitive tendering is not required, ie where delivery of a service could only be undertaken by a single firm or contractor or where the UHB requires a propriety item or service of a particular character. In such circumstances the UHB may award a contract without competition through a single tender action. There were numerous suppliers which could have delivered the service provided by RKC Associates, and the UHB did not require a propriety item or service. Furthermore, the UHB did not procure the service through a single tender action. The SFIs state that: 'single tender action shall only be employed following a formal submission and with the express written permission of the Chief Executive, or designated deputy having taken into consideration due regard of procurement requirements. A detailed

record shall be maintained by the Chief Executive. All single tender action and extensions of contracts must be reported to the Audit Committee.' In regards to the contract awarded to RKC Associates in November 2014:

- there was no formal submission of a request for a single tender action;
- there was no written permission from the Chief Executive or a designated deputy approving a single tender action;
- no evidence has been provided to me to show that procurement requirements were taken into consideration, and the Procurement Department was not asked to give advice on procurement requirements;
- the Chief Executive did not maintain any record of a single tender action in respect of the contract; and
- the award of the contract was not reported to the UHB's Audit Committee as a single tender action.

23 Furthermore, the UHB did not act within its Scheme of Delegation and Earned Autonomy Framework which set out that authority for procurement and contracting procedures for goods and services over £1,000, (except for specified exceptions not applicable in this case) was delegated to the UHB's Head of Procurement. The services of RKC Associates were procured without reference to the UHB's Head of Procurement and, in my view, those involved in this procurement acted without being authorised by the UHB to do so.

24 I therefore consider that the contract was awarded in breach of the UHB's SFIs and Scheme of Delegation and Earned Authority Framework. Furthermore, the award of this contract breached other provisions within the UHB's SFIs. These are set out in [Appendix 3](#). As set out in [paragraph 20](#), failure to comply with the requirements of SFIs and Scheme of Delegation and Earned Authority Framework without good reason has the potential to render a contract and all associated expenditure under it contrary to law. The UHB has not provided me with a reason to explain why proper process was not followed.

Decision to contract with RKC Associates

- 25 The UHB has been unable to provide me with any contemporaneous documentation that records how and why the decision was made to contract with RKC Associates in November 2014 without seeking competitive tenders. The NHS Wales Shared Services Partnership (NWSSP) Procurement Department, (the Procurement Department) manages procurements on behalf of the UHB. The UHB's Head of Procurement states that the Procurement Department was not asked to advise or be involved in any way with the proposed contract.
- 26 According to Professor Cairns, whilst he and Ms Casey met Ms Chana on 16 October 2014, the purpose of that meeting was to assess whether Ms Chana possessed the requisite skills and experience to undertake the required support role at the UHB. His assumption was that the contract award to RKC Associates was approved by Ms Casey and his recollection was that the Deputy Director of Finance had been involved from a finance perspective. Professor Cairns' expectation was that any award would have followed the UHB's finance and procurement arrangements.
- 27 Ms Casey maintains that the decision to engage Ms Chana through her company, RKC Associates, was made by Professor Cairns, and that Professor Cairns agreed the terms of Ms Chana's engagement at a meeting. Professor Cairns met with Ms Chana at the UHB's premises on 11 November 2014. Ms Casey states that she had thought that Professor Cairns would have ensured that the procurement of RKC Associates had followed proper process. This contention is, however, not consistent with the available documentary evidence. On 6 November 2014, the UHB's Deputy Director of Finance wrote to Ms Chana notifying her that the proposed contract 'is all fine and acceptable.' It would therefore seem that the terms of Ms Chana's engagement had been agreed in advance of Ms Chana's meeting with Professor Cairns on 11 November 2014.
- 28 Ms Casey has also made the point to my auditors, that she sent the draft contract to the then Director of Finance who was responsible for the procurement portfolio. She was subsequently informed by the Deputy Director of Finance that the contract was 'OK to sign'. She also states that: 'at no stage in any of this process was there ever any mention of the need to undertake a Procurement/SFI process'.
- 29 However, the former Director of Finance recalls that she asked Ms Casey how the award of a contract to RKC Associates had been agreed, and that Ms Casey told her that 'it had been agreed by [the then Chief Executive] and it was just the wording of the contract that needed to be reviewed'. The then Director of Finance also recalls that she checked this with Professor Cairns who confirmed that he had agreed the award of the contract. The then Director of Finance did not retain a written note of these conversations.

30 Professor Cairns maintains he did not negotiate the contracts or authorise the contract awards, and no documentary evidence of his involvement has been provided to me. I have therefore been unable to conclude on the extent of Professor Cairns' involvement in these matters.

31 Regardless of who agreed that a contract could be awarded to RKC Associates in November 2014, the fact remains that the contract was awarded in breach of the UHB's procurement rules. Furthermore, the documentary evidence available to me shows that Ms Casey was integrally involved in negotiating the terms of the contract with RKC Associates and signed the contract on behalf of the UHB. My conclusion is based on the following:

- Ms Casey received the proposed contract from Ms Chana by e-mail on 22 October 2014, just six days after the meeting referred to in paragraph 26. As the UHB's Chief Operating Officer, Ms Casey should have been aware that tenders could not have been sought and assessed as required by the UHB's SFIs within this time-frame. Nevertheless, Ms Casey signed the contract.
- whilst Ms Casey maintains that Professor Cairns agreed the terms of the engagement with Ms Chana, the covering e-mail to the proposed contract sent by Ms Chana to Ms Casey on 22 October 2014 states: 'please find attached my drafted proposal reflecting our phone discussion on Monday this week [20 October 2014]'. I am therefore of the view that Ms Casey was directly involved in agreeing the terms of Ms Chana's engagement.
- contemporaneous e-mails between Ms Casey and the UHB's Finance Department indicate that Finance Department staff considered that the decision to enter into the contract was to be taken by Ms Casey. For example, on 4 November 2014, the UHB's Deputy Director of Finance wrote to Ms Casey stating that: 'the contract looks ok to sign'.
- on 4 November 2014, Ms Casey wrote to the UHB's Deputy Director of Finance setting out that Ms Chana was available for two days the following week 'to get orientated' and that Ms Chana would then 'start formally 4 days a week from 1 December'. This e-mail strongly indicates that the decision to appoint RKC Associates was taken before Professor Cairns met Ms Chana on 11 November 2014. The meeting of 11 November 2014 between Ms Chana and Professor Cairns was part of Ms Chana's agreed orientation to the UHB and Ms Chana was paid for orientation days on 11 and 12 November 2014 as part of the consultancy contract.

- Ms Chana has stated that it was the Chief Executive who agreed the terms of her engagement, but has clarified that she considered he did this 'through his collective direct reports'. My understanding of this statement is that the then Chief Executive was not directly involved in discussing or agreeing the terms of the engagement with Ms Chana.
 - on 12 May 2016, the UHB's Director of Corporate Governance, in response to my audit queries, confirmed that the terms of the contracts with RKC Associates in November 2014 were agreed by Ms Casey.
- 32 In maintaining that her involvement in decisions relating to the contract was minimal, Ms Casey has pointed out that on 4 November 2014, she e-mailed the Deputy Director of Finance stating that as the then Chief Executive, Professor Cairns 'mentioned today, he is keen that she [Ms Chana] starts ASAP. I understand that she is available next week for 2 days to get orientated then start formally 4 days a week from 1 December. I understand that she is planning to work flexibly and this means working from home on some days.' However, at the point in time this meeting took place, the contractual terms had already been agreed subject to clarification of some financial details relating to contractual expenses and the wording of invoices.
- 33 Ms Casey maintains that she has: 'never denied that the procurement procedures were not complied with, [and] was not aware at the material times that they should have been'. She told my auditors that she became aware that the procurement rules had not been complied with when she was interviewed by them in December 2016.
- 34 Nevertheless, in signing the contract Ms Casey accepted responsibility for the decisions to enter into the contract which included responsibility for ensuring that the contracted services had been procured in accordance with the UHB's procurement rules. I do not accept Ms Casey's explanation that she was unaware at the time that procurement rules needed to be complied with. As an executive director of the UHB, she should have been aware of the requirements, and if she was not aware of the requirements she should have sought advice from the UHB's Procurement Department.

The award of a contract to RKC Associates in June 2015 with a value of between £110,888 and £112,078 + VAT breached of the UHB's Standing Financial Instructions and Scheme of Delegation and Earned Autonomy Framework

35 On 1 June 2015, a letter was sent to Ms Chana addressed from the UHB's Chief Operating Officer, Ms Casey, stating: 'I write to confirm that Cardiff & Vale University Health Board wishes to contract with you for the provision of support in respect of the interim cover required for the Director of Workforce & Organisational Development role. This will be for a period of six months with effect from 9 June 2015, with the duration subject to the hiring of a permanent Director of Workforce and Organisational Development. During this period, the expected deliverables will be as follows:

- Senior level interim support to the Directorate of Workforce.
- Implementation of the plans to reduce sickness absence.
- Implementation of the plans to improve the recruitment process.

I look forward to receiving your proposal.'

36 The implementation of the plans to reduce sickness absence and improve the recruitment process were specified deliverables of the previous contract awarded by the UHB to RKC Associates in November 2014, and under the terms of that contract were required to be delivered by May 2015 (see [paragraph 16](#)). The implementation of the plans to reduce sickness absence and improve the recruitment process were also specified deliverables of a further contract awarded by the UHB to RKC Associates in February 2016 (see [paragraph 116](#)).

37 The letter of 1 June 2015 was signed electronically with Ms Casey's scanned signature. Ms Casey states that the letter was prepared by the HR Department on the instruction of an unknown person whilst she was on leave and that she 'was not a party to the agreement to offer [Ms Chana] a new contract.' She also states that her Executive Assistant 'would have been asked to apply my electronic signature as I was on leave'. Ms Casey maintains that when she returned to work on 15 June 2015, Ms Chana had already commenced work on the new engagement set out in the letter of 1 June 2015 and she 'assumed that all was in order' and therefore signed the contract referred to in the next paragraph.

- 38 The suggestion that an unknown individual or individuals instructed that a letter be issued in Ms Casey's name without her consent, in order to secure a further contractual engagement for RKC Associates is a potentially serious matter. The letter of 1 June 2015 was sent by e-mail to Ms Chana by Ms Casey's Executive Assistant on 1 June 2015 and the covering e-mail stated: 'please see attached letter from [Ms Casey].' The HR records provided to me by the UHB indicate that Ms Casey did not commence her leave until 2 June 2015, the day after the letter was sent. Ms Chana replied directly to Ms Casey on 3 June 2015 attaching her contract proposal and stating: 'Dear [Ms Casey], thank you for your letter. Please find attached the proposal as requested. I look forward to your response.' I am unclear why, if Ms Casey had not authorised sending the letter, on receiving this e-mail she did not raise a concern regarding the unauthorised use of her signature. On 15 June 2015, Ms Casey signed a contract with RKC Associates for the provision of HR consultancy services to the UHB for a six-month period commencing on 9 June 2015. The contract takes the form of a 'proposal for consultancy support' drafted by the owner and sole director of RKC Associates. The contract is consistent with the letter of 1 June 2015 referred to above.
- 39 The contract specifies that RKC Associates will provide the UHB with:
- 'Senior level interim support to the Directorate of Workforce and OD reporting to the Chief Operating Officer for a period of six months starting 9 June 2015;
 - Two high priority areas:
 - implementation of the plans to reduce sickness absence; and
 - implementation of the plans to improve the recruitment process.
- Other relevant priority areas may arise. These will be undertaken with agreement.'
- 40 The proposal document states that the consultancy work would be undertaken by the owner and sole director of RKC Associates, Ms Chana, who would be paid £1,000 per day plus 'reasonable expenses' + VAT.
- 41 The UHB made payments to RKC Associates of £101,000 + VAT for 101 days of consultancy provided to the UHB between 9 June 2015 and 4 December 2015. In addition, RKC Associates was paid associated contractual expenses of between £9,888 and £11,078 + VAT. The exact figure is unclear as one invoice submitted by RKC Associates covered two contractual periods.

- 42 As at June 2015, the UHB's Director of Workforce and Organisational Development remained on secondment and my understanding is that the further contract awarded to RKC Associates was intended to provide continued consultancy support cover to the Department of Workforce and Organisational Development during the secondment period.
- 43 It is not clear to me whether the contract of June 2015 was intended to be a new contract or an extension of the contract awarded to RKC Associates in November 2014. In either case, in my view, this contract or contract extension was awarded in breach of the UHB's SFIs. As set out in [paragraph 21](#), the SFIs required all contracts in excess of £25,000 to be subjected to competitive tendering, (other than in exceptional circumstances not applicable in this case – see [paragraph 22](#)). No competition was sought for the award of the contract nor was the UHB's Procurement Department asked to provide advice on the procurement or contract award.
- 44 Paragraph 10.8 of the UHB's SFIs states that: 'subject to complying with any legal requirement and agreed contract conditions, a contract may be extended on a single occasion providing the additional cost does not exceed 50% of the original value of the contract to a maximum of £75,000 exclusive of VAT'. If the contract was intended to be a contract extension, as the value was in excess of £75,000 and exceeded 50% of the value of the November 2014 contract, its award was in breach of the UHB's SFIs. This is a moot point given that the November 2014 contract was awarded without competition.
- 45 UHB officers have been unable to provide any explanation of why the UHB awarded the contract to RKC Associates in June 2015 without seeking competitive tenders, as required by the UHB's SFIs.
- 46 Furthermore, the UHB did not act within its Scheme of Delegation and Earned Autonomy Framework which set out that authority for procurement and contracting procedures for goods and services over £1,000, (except for specified exceptions not applicable in this case) was delegated to the UHB's Head of Procurement. The services of RKC Associates were procured without reference to the UHB's Head of Procurement, and those involved in this procurement acted without being authorised by the UHB to do so.

- 47 Whilst the Chief Operating Officer, Ms Casey, maintains that the decision to award the contract to RKC Associates was made by the then Chief Executive, Professor Cairns, she has been unable to provide me with any contemporaneous documentation to support this contention. I do not accept Ms Casey's contention that she 'was not a party to the agreement to offer [Ms Chana] a new contract.' In signing the contract with RKC Associates Ms Casey was by definition a party to the agreement. Additionally, as the authorising officer she had a duty to ensure that the services being contracted had been procured in accordance with the UHB's procurement rules as set out in its SFIs. She failed to do so.
- 48 I have not been persuaded by Ms Casey's representation that the letter sent to Ms Chana was sent out without her knowledge or consent. Whether or not this was the case, as the UHB's signatory to the contract, Ms Casey should have ensured proper process was followed.
- 49 Regardless of how and when the decisions were reached to contract with RKC Associates, Ms Casey signed the contract. The contract was awarded in contravention of the UHB's SFIs and those who procured the services of RKC Associates did not have authority to do so under the UHB's Scheme of Delegation and Earned Autonomy Framework. As a consequence, the UHB cannot demonstrate that the contract was awarded lawfully, fairly and transparently.

The award of consultancy contracts to RKC Associates breached public procurement rules

- 50 The UHB, as a public body, is subject to the Public Contracts Regulations 2015, and before February 2015, it was subject to the Public Contracts Regulations 2006. These regulations are intended to ensure that, where a procurement is within their scope, the letting of the contract complies with the principles of:
- equal treatment;
 - transparency;
 - non-discrimination; and
 - proportionality.
- 51 The UHBs SFIs state that: 'EU directives and UK regulations ... exist covering the whole field of procurement, and these Directives set thresholds above which special and demanding procurement protocols and legal requirements apply. All Directors and their staff are responsible for ensuring that those Directives are understood and fully implemented.'
- 52 In November 2014, the UHB awarded a contract to RKC Associates for the provision of HR consultancy services for a period of six months. In June 2015, the UHB entered into a further contract with RKC Associates for the provision of HR consultancy services for a further six-month period. On 14 December 2015, the UHB re-engaged RKC Associates for a further three-month period ending on 31 March 2016. The UHB did not invite competition for any of these contractual opportunities before engaging RKC Associates, (although as set out in [paragraphs 110 to 132](#), the UHB did invite competition for the third contractual period on 23 December 2015, although in my view the UHB had already engaged RKC Associates on 14 December 2015).
- 53 Where a contract for services falls within the full scope of the public procurement regime, the contracting authority is bound by the following essential obligations:
- to publish a notice in the Official Journal of the European Union (OJEU) in a prescribed format advertising the contract;
 - to use a specified award procedure, and to comply with related requirements concerning selection and award criteria;
 - comply with reporting requirements following a decision to award a contract; and
 - comply with the principles of transparency, equal treatment, non-discrimination and proportionality.

- 54 Public procurement requirements are complex, and legal advice provided to me states that a contract for services will fall within the full scope of the public procurement regime if the following conditions are met:
- the services to be provided fall within specified categories; and
 - the contracting authority reasonably estimates, at the beginning of the procurement, that the total amount payable under the contract will exceed the relevant value threshold; and no legal exceptions apply (I am advised that none do in this case).
- 55 The advice to me is that the services that were to be provided by RKC Associates were best characterised as management consultancy services, which in principle were subject to the full ambit of the public procurement regime. The relevant value threshold at which the full requirements of the regulations applied was, at the relevant time, £111,676. Where a contracting authority does not estimate the likely value of a contract for a service subject to the public procurement regime, this is in itself a breach of the public procurement regulations. The UHB did not estimate the relevant value of the November 2014 and June 2015 contracts nor did it consider whether those contracts might be renewed.
- 56 Although some attempt can be made to work out what a reasonable estimate would have been, this is ultimately a matter for the UHB and I cannot take a definitive view on this. However, I consider it likely that had an estimated value been calculated by the UHB, it would have shown that the relevant value threshold was exceeded. The UHB ought therefore to have procured the agreements in accordance with the 2015 Regulations. In addition, the advice to me is that the procurement process carried out in relation to the contract awarded in February 2016 was potentially in breach of the 2015 Regulations because the contract notice which the UHB published was not fit for purpose as it was not advertising a genuinely available contract as set out in [paragraphs 110 to 122](#).
- 57 As stated above, the public procurement regulations are complex. I would not therefore expect most UHB officers to have a detailed understanding of the rules. However, I would expect senior UHB officers to be aware of the need for compliance with the rules, and, if unsure as to their applicability, to seek advice from the UHB's Head of Procurement. No such advice was sought. The Head of Procurement agrees that the amounts involved were above the relevant value thresholds and the procurements should have been subject to a full OJEU procurement process.
- 58 The failure of the UHB to comply with the regulations when awarding contracts to RKC Associates in November 2014 and June 2015 exposed the UHB to reputational risk and the risk of action against the UHB by potential tenderers and/or the European Commission.

The UHB failed to undertake due diligence checks of RKC Associates

- 59 When considering awarding contracts to external suppliers, it is crucial that public bodies understand who they are doing business with. This is necessary to ensure that potential suppliers have the capacity and capability to deliver the contract, are financially stable and have a sound reputation. In order to establish whether potential suppliers are suitable to deliver public contracts, public bodies undertake what are known as 'due diligence' checks. Where due diligence is not undertaken the organisation will be exposed to financial and reputational risk.
- 60 The UHB's SFIs state that: 'the Director of Finance has the responsibility to establish that all firms on the tender list are financially sound and professionally competent through a pre-qualification/financial vetting process undertaken by a suitably qualified and experienced procurement officer'.
- 61 For significant contracts, including all those over the public procurement thresholds, the UHB exercises its due diligence responsibilities by asking potential tenderers to complete Pre-Qualification Questionnaires (PQQs). These questionnaires are designed to identify suppliers who do not meet the organisation's core requirements. Where a supplier does not meet the requirements they are not considered for contract award.
- 62 The UHB's PQQ requires suppliers to answer detailed questions in the following areas:
- general organisation/company information;
 - capacity and capability;
 - economic/financial standing;
 - management/governance;
 - equal opportunities;
 - sustainability;
 - health and safety;
 - insurance; and
 - incidents and disputes.

- 63 RKC Associates was not asked to complete PQQs prior to it being awarded contracts in November 2014 and June 2015. Furthermore, no evidence has been provided to me to show that any due diligence checks were undertaken by the UHB in respect of RKC Associates or Ms Chana.
- 64 The failure to conduct appropriate due diligence checks is concerning. If the UHB had undertaken cursory checks of RKC Associates, it would have identified that RKC Associates was incorporated at Companies House on 7 November 2014, four days before Ms Chana, the owner of RKC Associates commenced work on the contract, and two weeks after Ms Chana had sent the UHB her contract proposal to the UHB headed up 'RKC Associates Ltd'.
- 65 When Ms Chana commenced work on the contract, RKC Associates was a newly-formed company, had not previously undertaken any consultancy work and had no financial or governance track record.
- 66 Furthermore, the UHB has been unable to provide me with any evidence that it sought to confirm that:
- RKC Associates had public liability and professional indemnity insurance cover in place;
 - Ms Chana had made arrangements for payment of income tax and national insurance (see [paragraphs 77 to 85](#)); and
 - Ms Chana had satisfactory references from past employment.
- 67 The failure of the UHB to carry out proper due diligence checks on both RKC Associates and Ms Chana exposed the UHB to unnecessary risk.
- 68 The UHB's Deputy Director of Finance describes the Finance Department's role in respect of the November 2014 contract being one of reviewing and commenting on the draft contract from a finance perspective. As set out in [paragraph 29](#), the UHB's then Director of Finance states that Ms Casey informed her that: 'it was just the wording of the contract that needed to be reviewed'. The Finance Department carried out this task at the request of the Chief Operating Officer, Ms Casey. The UHB's Deputy Director of Finance maintains that the Finance Department had no involvement in procuring the consultancy service nor did it undertake any due diligence checks.
- 69 Ms Casey was the officer who signed the contract with RKC Associates on behalf of the UHB and she had a duty as the authorising officer to ensure that the necessary due diligence checks had been undertaken.

The UHB was in breach of its own Standing Financial Instructions when it agreed contracts with RKC Associates which had been drafted by the owner of RKC Associates and in doing so exposed the UHB to unnecessary risk

- 70 It is standard practice for public bodies entering into contracts with suppliers of services to formalise the terms and conditions in writing. Written contracts provide certainty to both parties and are an agreed point of reference if contractual disputes occur. A written service contract should cover matters such as:
- the agreed price and contract period;
 - the specification of the services to be delivered;
 - legal and other supplier obligations;
 - contract monitoring arrangements;
 - dispute resolution arrangements; and
 - cancellation provisions.
- 71 The UHB's SFIs state that: 'every invitation to tender should be accompanied by the LHB's standard contract terms and conditions, and the basis on which the LHB shall engage in business with the contractor. Where appropriate a customised contract can be developed by senior procurement officials with appropriate legal advice and subject to approval by the Director of Finance.' The SFIs also state that: 'in every contract document a clause shall be included to secure that the LHB shall be entitled to cancel the contract and recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have prepared his tender in collusion with others, or shall have offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward.'
- 72 The UHB has adopted NHS Wales' standardised contract for the supply of services. If the UHB had used this standard contract document when contracting with RKC Associates, it would have ensured that its SFI requirements for a written contract were met.

November 2014 contract

- 73 In November 2014, the UHB's Chief Operating Officer, Ms Casey, acting on behalf of the UHB entered into a contract with RKC Associates for the provision of a six-month consultancy contract. As set out in [paragraphs 14 to 16](#), the contract takes the form of a 'proposal for consultancy support' document that was sent by the owner and sole director of RKC Associates, Ms Chana, to the UHB's Chief Operating Operator, Ms Casey, on 22 October 2014, albeit neither the UHB or Ms Chana have been able to provide me with a signed copy of the document.
- 74 The contract document does not contain the UHB's standard terms and conditions and, in my view, the contract entered into by the Chief Operating Officer, Ms Casey, with RKC Associates in November 2014 was in breach of the UHB's SFIs and placed the UHB at unnecessary risk for the following reasons:
- the contract did not contain a detailed specification of the services to be delivered, quality standards, legal and other supplier obligations including tax treatment, contract monitoring arrangements, dispute resolution arrangements and cancellation provisions.
 - the contract stated that: 'under this consultancy, my responsibility is to provide in good faith the advice and services contained in this proposal. Acceptance of it indemnifies me against any legal action (with the exception of criminal liability) that may be taken in the future concerning any of the advice or services provided and any of the consequences that may or may not result. The parties involved or affected by the consultancy will be made aware that this is the case and be party to this indemnity by their participation in the consultancy as described above.' In my view, this was a contract term that the UHB should never have agreed to. It indemnified RKC Associates from legal action by the UHB in the event of non-delivery, sub-standard performance or negligence by the consultant.
- 75 On 22 October 2014, Ms Casey had a conversation with the UHB's then Director of Finance (who was also the UHB's Executive Lead on procurement) and followed up this conversation by e-mailing the proposed contract to the UHB's then Director of Finance. The e-mail states: 'please see attached proposal. Is it OK to sign?' The then Director of Finance circulated the draft contract to members of the UHB's Finance staff for consideration.

76 Whilst the UHB's Finance staff raised some specific points regarding the terms of the contract, it is disappointing that the Chief Operating Officer was not informed that the proposed form of the contract was unacceptable. On 4 November 2014, the Deputy Director of Finance advised Ms Casey that the proposed contract: 'looks OK to sign' but that it would be helpful to have some rules over what represented 'reasonable expenses'.

June 2015 contract

77 On 15 June 2015, the UHB's Chief Operating Officer, Ms Casey, acting on behalf of the UHB signed a further contract with RKC Associates for the provision of another six-month consultancy contract. This contract again took the form of a document drafted by Ms Chana of RKC Associates. As was the case with the November 2014 contract, the contract drafted by Ms Chana was not consistent with the UHB's standardised contract for the supply of services and was deficient for the same reasons set out in [paragraph 74](#).

78 The UHB has also provided me with a further contract that covered the same service and period as the one signed on 15 June 2015. This further contract was signed by Ms Casey on behalf of the UHB on 9 July 2015 and by Ms Chana on behalf of RKC Associates on 15 July 2015. The contract dated 9 July 2015 was drawn up by the UHB's Head of Workforce Governance. The terms of the July 2015 contract are far more detailed than the terms set out in the June 2015 contract, and include provisions whereby the UHB was able to require Ms Chana to provide details of her tax and national insurance arrangements.

79 It appears that the second contract was drawn up to ensure that the UHB's contractual arrangements with RKC Associates complied with the recommendations of HM Treasury's 'Review of the tax arrangements of public sector appointees' (the HM Treasury review). The Welsh Government has adopted the recommendations of the HM Treasury review and Welsh NHS bodies were required to comply with these recommendations with effect from December 2013.

80 The recommendations included:

- 'board members and senior officials with significant financial responsibility should be on the organisation's payroll, unless there are exceptional circumstances – in which case the Accounting Officer should approve the arrangements – and such exceptions should exist for no longer than six months; and

- engagements of more than six months in duration, for more than a daily rate of £220, should include contractual provisions that allow the department to seek assurance regarding the income tax and NICS obligations of the engagee – and to terminate the contract if that assurance is not provided.’
- 81 On 27 February 2015, all NHS chief executives, including the UHB’s then Chief Executive, Professor Cairns, received correspondence from the Welsh Government regarding the need for compliance with these recommendations. Professor Cairns forwarded the correspondence to Ms Chana asking: ‘What do we need to do about you?’ Ms Chana responded to Professor Cairns copied to Ms Casey stating: ‘[Ms Casey] and I have discussed this and agreed to pick this up when I’m back in the office alongside [the Deputy Director of Finance] and take action on any agreed steps.’
- 82 Despite this, the contract with RKC Associates signed by Ms Casey on 15 June 2015 did not include provisions to allow the UHB to seek assurance from Ms Chana regarding her income tax and national insurance obligations.
- 83 The UHB’s Head of Workforce Governance states that he prepared a template contract for services document on his own initiative having attended a seminar which referred to the need for compliance with the HM Treasury review. On becoming aware that Ms Chana was to be re-engaged, he considered that she should be issued with the contract he had developed to ensure contractual terms were compliant with the recommendations of the HM Treasury review.
- 84 On 19 June 2015, the Head of Workforce Governance wrote to Ms Casey stating: ‘as part of the requirement to comply with HM Treasury rules in respect of the tax liabilities of contractors, we will need to issue [Ms Chana] with a new contract. I have drafted the attached (which we will use as a template for all other contractors).’
- 85 The contract awarded to RKC Associates in July 2015 introduced provisions to enable the UHB to seek assurances from Ms Chana regarding her tax and national insurance arrangements. In my view, the UHB failed to comply with its own SFIs when it entered into contracts with RKC Associates in November 2014 and June 2015 which had been drafted by Ms Chana and in so doing exposed the UHB to unnecessary risk.

The UHB appointed the owner of RKC Associates to deliver consultancy projects, but the UHB utilised her as a senior member of staff and in consequence has potentially over-claimed VAT amounting to £58,162

- 86 RKC Associates' contractual appointments to provide consultancy services to the UHB, followed the secondment of the UHB's then Director of Workforce and Organisational Development to another NHS organisation at very short notice on 1 October 2014. As a consequence, the UHB experienced a reduction in its overall HR leadership capacity.
- 87 The UHB entered into contracts with RKC Associates in November 2014, June 2015 (which was superseded by a contract made in July 2015) and February 2016 (see **paragraphs 110 to 153** for details of the February 2016 contract). The UHB has treated these contracts as contracts for the delivery of consultancy services. All the work required under these contracts was delivered by the owner of RKC Associates, Ms Chana. As set out in **Appendix 1**, each contract sets out the consultancy services Ms Chana would be required to deliver. The specified deliverables for each contract are very closely associated. The three key elements of each contract were:
- improvement of the UHB's recruitment processes;
 - reduction of sickness absence rates; and
 - provision of senior interim support to the Directorate of Workforce and Organisational Development.
- 88 On 22 October 2014, Ms Casey sent a copy of the proposed contract with RKC Associates to the UHB's then Director of Finance for review. A concern was raised by staff within the Finance Department as to whether the contract related to a supply of staff, or for consultancy services. This was an important distinction because if the contract was for the supply of staff, the UHB would be unable to recover any VAT charged by RKC Associates, but if the contract was for consultancy services, the UHB would be able to recover any VAT paid from HMRC.
- 89 Finance Department staff acted appropriately and sought advice on this matter from the UHB's external VAT adviser who advised that use of the word 'interim' in the proposed contract was unhelpful as: 'it's always seen as a sign by HMRC of a supply of staff. In this case, however, it feels as if interim means for a short or given time period rather than fulfilling an existing role. It looks as if Ms Chana will be being 'employed' to provide a working study of these processes and advise on changes. There is a definite beginning and end point to this process. A final check might be to make sure that this isn't a role [Ms Chana] is fulfilling that is an ongoing

position. If it isn't and I suspect not, then I would be happy for you to recover the VAT charged on this supply... I would however get some better wording on the invoices [Ms Chana] will send through to represent what is really being supplied. If you could ask that the word interim is avoided being used that would help, as this doesn't look to me as fulfilling an interim position, it looks like consultancy work completing a study of processes.'

90 In my view, the advice received by the UHB was sound. However, in practice, the UHB did not utilise Ms Chana solely as a consultant undertaking specific projects defined within the contracts, but as an employee exercising a broad range of employee-related functions unspecified within the contract. My reasons for reaching this conclusion include:

- When applying for the role of the UHB's Director of Workforce and Organisational Development in January 2016, Ms Chana submitted her curriculum vitae (CV) to be considered by the UHB's recruitment assessment panel. The CV records that Ms Chana had been operating in the role of the UHB's interim Director of Workforce and Organisational Development since December 2014. The CV sets out a broad range of leadership and managerial responsibilities that Ms Chana had been exercising during the period since December 2014, including: 'leading the Workforce and OD function (150 staff), clarifying accountabilities, roles and agile improvement'.
- The UHB's own internal documentation for the period in question, including Board minutes, record that Ms Chana was the UHB's Interim Director of Workforce and Organisational Development or Interim Director of Human Resources. These documents also set out that Ms Chana was exercising a wide range of responsibilities beyond those set out in her contracts for consultancy services.
- As set out in [paragraph 89](#), the UHB's VAT adviser had advised the UHB in October 2014 that use of the word 'interim' in the proposed contract was unhelpful as: 'it's always seen as a sign by HMRC of a supply of staff. In this case, however, it feels as if interim means for a short or given time period rather than fulfilling an existing role'. Despite this, the UHB entered into further contractual agreements in June 2015 and February 2016 which stated that Ms Chana would be required to provide senior level interim support to the Directorate of Workforce and Organisational Development (see [Appendix 1](#)) and letters addressed from Ms Casey to Ms Chana dated 1 June 2015 (see [paragraph 35](#)) and 14 December 2015 (see [paragraph 116](#)) stated that: 'Cardiff and Vale University Health Board wishes to contract with you for the provision of support in respect of the interim cover required for the Director of Workforce and Organisational Development role.' I therefore consider that Ms Chana was appointed as a 'supply of staff'.

- 91 Ms Chana has told my auditors that she was utilised to deliver the specific tasks set out in her consultancy contracts and that she met with the UHB's then Chief Executive, Professor Cairns, who asked her to undertake work on 'other relevant priority areas'. Ms Chana has set out examples of the activities she was asked to deliver and this has served to reinforce my view that Ms Chana was de facto operating as an employee of the UHB.
- 92 In **paragraphs 50 to 58**, I conclude that the UHB's contracts with RKC Associates were for the provision of management consultancy contracts for the purposes of public procurement rules. However, for the purposes of tax regulations, I consider that due to the scope and nature of the activities undertaken, Ms Chana should have been regarded as an off-payroll public sector appointee. In consequence, the UHB has potentially incorrectly recovered VAT totalling £58,162 from HMRC on payments made to RKC Associates in respect of the period November 2014 to March 2016. Notwithstanding this conclusion, I do not consider that the agreements were employment contracts for the purpose of the exception in the Public Contract Regulations 2006 and 2015.

As the officer who signed the contracts with RKC Associates in November 2014 and June 2015, the UHB's Chief Operating Officer had a duty to ensure proper process had been followed. The failure to do so has cast doubt on whether the decisions to award these contracts were based entirely on valid considerations

- 93 The public has a right to expect public officials to carry out their responsibilities demonstrating high standards of behaviour. The UHB has put in place a 'Standards of Behaviour Framework Policy Incorporating Declarations of Interest, Gifts Hospitality and Sponsorship' (the Standards of Behaviour Framework). The Standards of Behaviour Framework states that: 'the Board expects all Independent Members and Employees to practice high standards of corporate and personal conduct, based on the recognition that the needs of patients must come first'.
- 94 The Standards of Behaviour Framework sets out guidance for UHB staff and independent members on managing and recording potential conflicts of interests. Of particular relevance are the following statements, members of staff should:
- 'Verbally declare any relevant interest when a potential conflict arises, eg at Board and committee meetings, during procurement processes;
 - observe the Standing Orders, Standing Financial Instructions and procurement policies and procedures of the UHB;

- if the employee is requested to participate in the procurement process they will be asked to reaffirm their interests and to confirm that there are no other relevant interests that should be declared;
- remember that the need to declare an interest also includes those of your close family and possibly friends; and
- declare any relevant interests (including anything) that could cause a potential conflict of interest.'

- 95 In the Summer/Autumn of 2014, as set out in [paragraph 19](#) the UHB's Chief Operating Officer, Ms Casey, contacted a former colleague, Ms Chana and informed her that the UHB was looking to procure interim support to the UHB's Workforce and Organisational Development Department whilst the Department's Director was on secondment. This ultimately led to Ms Chana's company, RKC Associates, being awarded three consultancy contracts with a value of £290,809 + VAT.
- 96 Ms Casey maintains that at the time she approached Ms Chana it had been several years since she had worked with Ms Chana and that their association was entirely professional. Furthermore, whilst she introduced Ms Chana to the UHB's then Chief Executive, Professor Cairns, she played no part in the decision to award a contract to Ms Chana's company, RKC Associates in November 2014, nor was she involved in negotiating the terms of the engagement. However, as set out in [paragraph 31](#), the available documentation indicates that Ms Casey was integrally involved in negotiating the terms of the engagement and signed the contract on behalf of the UHB.
- 97 Given Ms Casey's past association with Ms Chana, she should have formally declared this through the UHB's formal systems for declaring potential and actual interests, and she should have sought advice on whether it was appropriate for her to have any role in the procurement or contracting processes. Ms Casey did not formally declare what could be perceived to be a relevant interest.
- 98 Ms Casey was open with colleagues regarding her past association with Ms Chana, and this has been confirmed to me by the UHB's Nursing Director and the former Chief Executive and former Director of Finance. Had the matter been declared, it may have been determined that the interest was sufficiently remote that Ms Casey should not be disqualified from participating in any procurement and contracting process conducted in accordance with the UHB's SFIs.

- 99 However, as set out in this report, Ms Casey signed significant contracts with RKC Associates in November 2014 and June 2015 without having:
- sought advice from the UHB's Procurement Department;
 - ensured that the contract had been procured in accordance with the UHB's SFIs and Scheme of Delegation and Earned Autonomy Framework; and
 - ensured due diligence checks had been undertaken in respect of RKC Associates and Ms Chana.
- 100 If these services had been procured through the UHB's Procurement Department, Ms Casey would have been required to complete declaration of interest forms before participating in the procurement processes. However, because proper process was not followed, Ms Casey was not requested to, nor did she complete declaration of interest forms in respect of these procurements.
- 101 Ms Casey's failure to ensure that the contracts awarded to RKC Associates in November 2014 and June 2015 had been procured through proper processes in conjunction with her past association with Ms Chana, which was not formally declared, has cast doubt over whether the decisions to award these consultancy contracts to Ms Chana's company were based on entirely valid considerations.

The UHB did not exercise effective financial monitoring of its contracts with RKC Associates with payments exceeding the contracted value and contractual expenses not being verified

The amount paid to RKC Associates exceeded the agreed contract value, but no contract variation was agreed and the overspend was not reported

- 102 When contracts for services are awarded by public bodies to external suppliers it is essential that financial monitoring arrangements are put in place to ensure that:
- the amounts paid to a supplier are in accordance with the agreed contractual terms;
 - any variations between the agreed terms are formally agreed and reported; and
 - all amounts charged by the supplier under the contract are scrutinised to ensure that they are legitimate contract expenses.

- 103 RKC Associates submitted invoices to the UHB in respect of consultancy undertaken for the UHB between November 2014 and March 2016. The work undertaken related to three consultancy contracts.
- 104 Under the terms of the contracts, RKC Associates was contracted to provide up to a maximum of 252 days of consultancy service at a rate of £1,000 + VAT a day with a total contract value of £252,000 + VAT. RKC Associates submitted invoices to the UHB for provision of 264.5 days of consultancy at a rate of £1,000 + VAT amounting to £264,500 + VAT. This was some £12,500 in excess of the agreed contractual amounts.
- 105 Ms Chana submitted invoices for the work undertaken to Ms Casey who authorised the invoices and in turn forwarded the invoices to the UHB's Finance Department for payment.
- 106 Whilst I have no reason to doubt that Ms Chana delivered the consultancy days for which the UHB was invoiced, the UHB has been unable to provide me with any documentation approving a variation of the contract terms or reporting the contract overspend and the reasons for it.

RKC Associates received payments of £26,309 + VAT in respect of expenses incurred in delivering its consultancy contracts with the UHB, but the UHB did not seek to verify that these expenses were legitimate under the contract terms

- 107 The terms of the contracts between RKC Associates and the UHB made provision for RKC Associates to claim reimbursement of expenses that had been incurred in delivering the contracts such as the cost of train travel, accommodation in Cardiff and taxi fares. In October 2014, the UHB's Finance Department agreed amendments to the contract proposed by Ms Chana setting out the maximum rates of expenses that Ms Chana would be able to claim. Further contracts awarded to RKC Associates in June 2015 and February 2016 set out that Ms Chana would be able to claim at the same rates as UHB employees.
- 108 During the period November 2014 to March 2016, RKC Associates was reimbursed £26,309 + VAT for expenses incurred. Ms Chana set out the amount of expenses she was seeking reimbursement of on each of RKC Associate's invoices. However, the invoices did not detail what the expenses related to or what rates were being claimed. Furthermore, no supporting receipts or invoices were provided in respect of the expenses claimed. Ms Chana states that she kept these receipts and offered to provide them to the UHB, but they were never requested. Despite the lack of detail provided to support Ms Chana's claims for reimbursement of expenses, the Chief Operating Officer, Ms Casey, authorised the invoices for payment and forwarded them to the UHB's Finance Department for payment processing.

- 109 Ms Casey did not have sight of any supporting documentation when authorising the expenses claims, and it appears that no effort was made to confirm that the expenses being claimed were legitimate contractual expenses. The UHB subsequently reclaimed VAT from HMRC in respect of these expenses, however, in the absence of any evidence to support what the expenditure related to and whether the amounts being claimed were gross or net of VAT, the UHB is not able to demonstrate that it was entitled to reclaim VAT.

The way in which an HR consultancy contract was awarded to RKC Associates in February 2016 along with the actions of key decision-makers compromised the integrity of the procurement process

The UHB embarked upon a procurement process for a contract and invited and evaluated tenders for that contract despite the fact that RKC Associates had been engaged in advance of the tender process

- 110 On 4 December 2015, the six-month contract awarded by the UHB to RKC Associates in June 2015, (which was superseded by a contract awarded in July 2015) reached the end of its duration.
- 111 Ms Casey states that she reminded the then Chief Executive, Professor Cairns, in late November 2015 that the contract with RKC Associates was due to terminate.
- 112 At some point in December 2015, the UHB's Director of Corporate Governance contacted the UHB's Assistant Director of Finance to seek advice on the procurement requirements for a three-month consultancy contract. The Director of Corporate Governance cannot recollect the circumstances which prompted him to speak to the Assistant Director of Finance regarding this matter.
- 113 On 22 December 2015, the Assistant Director of Finance met with the UHB's Head of Procurement and the Head of Procurement advised that the proposed three-month consultancy contract needed to be procured through a competitive tendering exercise, in accordance with the UHB's SFIs.

- 114 On 23 December 2015, the UHB's Head of Procurement placed a contract notice advertising the availability of a three-month HR consultancy contract and inviting potential suppliers to submit tenders for the contract by 6 January 2016. Six tenders were received and evaluated by the UHB's Head of Procurement and a Procurement Officer on 7 January 2016. Following the evaluation, the Procurement Officer produced a draft procurement evaluation report and request for approval to award the contract. The Procurement Officer states that she sent these documents to the Chief Operating Officer, Ms Casey, at her request for acceptance or amendment. On 28 January 2016, the Head of Procurement e-mailed updated versions of the procurement evaluation report and request for approval to Ms Casey's Executive Assistant seeking approval to award the contract to RKC Associates. Ms Casey authorised the procurement evaluation report on 1 February 2016 and the UHB's Director of Finance authorised the request for approval on 9 February 2016.
- 115 On 12 February 2016, the UHB's Head of Procurement wrote to Ms Chana awarding RKC Associates the contract. The contract award letter specifies the period of the contract as 4 January 2016 to 31 March 2016.
- 116 During the course of my audit, the UHB provided me with a copy of a letter dated 14 December 2015 addressed from Ms Casey to Ms Chana and signed with Ms Casey's electronic signature which states: 'Cardiff and Vale University Health Board wishes to contract with you for the provision of support in respect of the interim cover required for the director of Workforce and Organisational Development role and the duration subject to the hiring of a permanent Director of Workforce and Organisational Development, which is now underway with interviews scheduled. During this period, the expected deliverables will be as follows:
- senior level interim support to the Directorate of Workforce;
 - implementation of the plans to reduce sickness absence; and
 - implementation of the plans to improve recruitment and retention especially for Band 5 nurses.'
- 117 The specification for the three-month consultancy contract set out in the letter dated 14 December 2015 is ostensibly the same as the contract advertised by the UHB's Procurement Department on 23 December 2015. It therefore appears that Ms Chana was informed in writing that she had been awarded the three-month consultancy contract in advance of the procurement process commencing.

- 118 Ms Casey maintains that the letter was prepared by 'the HR Department' and that she did not have any involvement in requesting the preparation of the letter. Ms Casey maintains that she believes the letter of 14 December 2015 was not sent to Ms Chana.
- 119 I have not been able to confirm definitively whether or not the letter was sent to Ms Chana. However, Ms Chana recommenced consultancy work at the UHB, reporting to Ms Casey, on 14 December 2015, the same date as the letter, and carried out 35 days of consultancy work for the UHB at a rate of £1,000 + expenses and VAT between 14 December 2015 and 11 February 2016.
- 120 Ms Casey maintains that she did not authorise the preparation of the letter dated 14 December 2015, nor does she believe it was sent to Ms Chana. However, if the letter dated 14 December 2015 was not sent to Ms Chana, it appears that Ms Chana reported to work at the UHB on 14 December 2015, undertook 35 days of consultancy work during the period 14 December 2015 and 11 February 2016 without having a contract in place, and Ms Casey authorised the payments to RKC Associates in respect of this work. Ms Casey has confirmed that she was aware at the time that the contract awarded to RKC Associates in June 2015 terminated on 4 December 2015.
- 121 Ms Chana has also confirmed that the letter dated 14 December 2015 would have been the basis for her engagement with the UHB from 14 December 2015.
- 122 I consider that the evidence strongly supports a conclusion that Ms Chana was informed that RKC Associates had been awarded a three-month consultancy contract and commenced work on that contract in advance of the tender process conducted by the UHB.

Backdating of contract awarded on 12 February 2016

- 123 The procurement evaluation report and the request for approval to appoint RKC Associates sent to the then Chief Executive on 28 January 2016, and the contract award letter sent to Ms Chana on 12 February 2016, state that the three-month contract period would run from 4 January 2016 to 31 March 2016. This was despite the fact that the deadline for receipt of tenders was 6 January 2016 and the date of contract award was 12 February 2016. Both of these documents were drafted within the UHB's Procurement Department. It therefore appears to me that it was known that RKC Associates was already delivering the advertised contract in advance of tenders for the contract being evaluated.

- 124 The contract start date was backdated to 4 January 2016, before the deadline for receipt of tenders. In my view, this was because Ms Chana had already been engaged on 14 December to deliver what was ostensibly the same contract which was officially awarded on 12 February 2016.
- 125 The Head of Procurement provided a copy of the draft procurement evaluation report which she maintains was sent to Ms Casey for her acceptance or amendment. This document was dated 7 January 2016 and set out that the contract period would run from 7 January 2016 to 31 March 2016.
- 126 Subsequent to this, an updated version of the procurement evaluation report was produced. This document was dated 27 January 2016, and the contract period was amended from the earlier version to cover the period 4 January 2016 to 31 March 2016. The updated version of the procurement evaluation report was sent to Ms Casey's Executive Assistant on 28 January 2016 and signed by Ms Casey on 1 February 2016.
- 127 The Procurement Officer states that she backdated the contract start date to 4 January 2016 in the final version of the procurement evaluation report, the request for approval and the contract award letter, following an instruction she received by telephone from the UHB Headquarters. She has told me that she cannot recall who gave this instruction. The Head of Procurement has provided me with an undated file note that she told me was prepared by the Procurement Officer. The file note states: 'Contract awarded 12 February 2016, however advised that RKC Associates had early start of 4 January 2016 and this is detailed on the [Request for Approval] and Acceptance letter to ensure the full contract value is encapsulated'.
- 128 Any procurement specialist should have been aware that an instruction to backdate a contract award is highly irregular. The Procurement Officer should have been deeply concerned at being informed that a supplier was already delivering the contract in advance of the deadline for receipt of tenders. It is surprising that the Procurement Officer cannot recall who gave her the instruction to backdate the contract period and did not record this in her file note.
- 129 The Procurement Officer should have refused the instruction and raised the matter with the Head of Procurement. The Head of Procurement has told me that the Procurement Officer did not draw the matter to her attention at the time, albeit the Head of Procurement signed the request for approval and the contract award letter, both of which had been backdated. The Head of Procurement has also told me that she had no knowledge of the letter dated 14 December 2015 referred to in [paragraph 116](#).

- 130 When awarding contracts to external suppliers, public bodies have a duty to ensure that they act with integrity, transparency and can demonstrate that potential suppliers have been treated fairly. Failure to do so has the effect of undermining public confidence in organisations entrusted with delivering key services on their behalf.
- 131 The UHB has adopted principles to guide its approach to public procurement and these are set out in the UHB's SFIs. The principles are:
- 'Transparency: public bodies should ensure that there is openness and clarity on procurement processes and now they are implemented
 - Non-discrimination: public bodies may not discriminate between suppliers or products on grounds of their origin
 - Fair treatment: suppliers should be treated fairly and without discrimination, including in particular equality of opportunity and access to information
 - Legality: public bodies must conform to European Community and other legal requirements
 - Integrity: there should be no corruption or collusion with suppliers or others
 - Effectiveness and efficiency: public bodies should meet the commercial, regulatory and socio-economic goals of government in a balanced manner appropriate to the procurement requirement
 - Efficiency: procurement processes should be carried out as cost effectively as possible and secure value for money.'
- 132 In my view, the decision to progress a procurement process in respect of a contract which appears to have already been awarded has very serious implications. These include:
- the UHB has failed to comply with its own procurement principles.
 - the actions of the officer(s) responsible is likely to seriously undermine the trust and confidence of potential suppliers in the integrity of the UHB's procurement processes.
 - potential suppliers submitted tenders for the contract in good faith and incurred costs in so doing. They were unaware that there was no possibility of winning the contract because, in my view, the contract had already been awarded. In consequence, the UHB has laid itself open to possible legal claims from these tenderers.
 - valuable public resources have been used conducting a process, the outcome of which had been predetermined.

The robustness and integrity of the advertised procurement process was compromised in several key respects and the UHB's Chief Operating Officer participated in the process despite knowing that RKC Associates had been engaged in advance of the procurement process commencing

- 133 As set out in paragraphs 110 to 132, the evidence strongly suggests that the outcome of the tender exercise that led to the award of a three-month contract to RKC Associates in February 2016 was predetermined. The tender exercise was essentially an artificial exercise given that RKC Associates had already been engaged on 14 December 2015. This calls into serious question the integrity of the procurement process.
- 134 The initial evaluation of the six tenders received by the tender deadline of 6 January 2016 was carried out by the Head of Procurement and the Procurement Officer as a desktop exercise with no involvement from other UHB officers. I would have expected an HR specialist with significant professional HR experience to have provided technical input to the evaluation of tenders given the contract was to provide senior level HR support to the UHB. Paragraph 10.2 of the UHB's SFIs states that: 'evaluation of tenders shall be entrusted to the appropriately qualified and experienced staff with the appropriate knowledge and skills to ensure that tenders are assessed in a robust and fair manner'. However, a file note maintained by the Procurement Officer records that the Chief Operating Officer, Ms Casey, requested that Procurement undertake the evaluation, 'due to the impartiality of Procurement'. This note indicates that Ms Casey recognised that she was not impartial in respect of this tender exercise.
- 135 After the initial evaluation exercise had been completed, the Procurement Officer produced a document pack containing a draft procurement evaluation report dated 7 January 2016, draft evaluation scores, a draft request for approval to award the contract, as well as copies of the tenders received. The Head of Procurement has confirmed that the document pack was provided to Ms Casey, at Ms Casey's request, for acceptance or amendment. The Procurement Officer states that she hand-delivered the document pack to the UHB building where Ms Casey was based, marked for her attention. The Procurement Department has not retained a copy of the document pack sent to Ms Casey. The Procurement Department has, however, been able to locate copies of each of the documents contained within the evaluation pack, other than the draft request for approval.

- 136 The draft procurement evaluation report dated 7 January 2016 records that whilst RKC Associates was the highest priced tenderer, its tender was awarded full marks on the other tender criteria (capability and internal and external alignment). In consequence, RKC Associates was identified as the highest scoring tenderer overall and the report recommended that RKC Associates be awarded the contract. The draft procurement evaluation report included spaces for Ms Casey and the UHB's Director of Finance to sign as authorising officers. Ms Casey has told me that she has no recollection of receiving the tender evaluation pack.
- 137 The Procurement Officer states that she asked for the procurement evaluation report to be authorised and returned to her on several occasions. On 27 January 2016, she produced a slightly amended version of the procurement evaluation report which she e-mailed to the UHB's Headquarters on 28 January 2016. The report was signed by the Chief Operating Officer, Ms Casey, on 1 February 2016 as the authorising officer. The tender evaluation scores in the final version of the procurement evaluation report are identical to those in the first iteration of the report dated 7 January 2016. The evaluation scores were therefore unchanged from the initial evaluation undertaken within the Procurement Department. On 28 January 2016, the Procurement Officer sent the final procurement evaluation report and the request for approval to Ms Casey's Executive Assistant. The request for approval states the contract value as £45,000 excluding VAT.
- 138 In my view, the integrity of the tender process was compromised due to the tender timetable, the involvement of the Chief Operating Officer, the backdating of the contract and the inherent advantage that RKC Associates had in the process. Each of these aspects is considered further below.

The timetable for submitting tenders had potential to restrict the number of tenderers

- 139 The contract advertisement was published on Wednesday 23 December 2015. The deadline for submission of tenders was midday on Wednesday 6 January 2016. This provided potential tenderers just six full working days, including Christmas Eve and New Year's Eve, to prepare and submit tenders. In my view, the timetable for the submission of tenders had the potential to restrict the number of tenders received. The Head of Procurement states that she was instructed to adhere to this timetable by Ms Casey because there was an urgent requirement for the service.

- 140 The Head of Procurement has provided me with a file note dated 22 December 2015 of a telephone conference she had held with Ms Casey and the UHB's Assistant Director of Finance regarding the tender process. The note records that Ms Casey 'confirmed urgent and can the tender be issued today'. However, this urgency was not in evidence after the deadline for receipt of tenders had passed. It was over four weeks' later that the UHB awarded RKC Associates the three-month consultancy contract (with only seven weeks remaining before the end of the three-month contract period specified in the contract award letter).
- 141 The Head of Procurement has told my auditors that Procurement staff contacted the UHB's Executive Headquarters on several occasions prior to 28 January 2016 seeking approval for the contract award but there was a delay in the approval process. The Chief Operating Officer, Ms Casey, did not sign the procurement evaluation report until 1 February 2016. She has told us that she does not know what the cause of the delay was. In my view, there was no urgency to formally award the contract because the recommended supplier had already been engaged on 14 December 2015 to deliver the contracted work.

The UHB's Chief Operating Officer participated in the procurement process when she was not impartial as she knew RKC Associates had already been engaged before the procurement process commenced

- 142 The initial scoring of tenders was undertaken by Procurement Department staff at the request of the Chief Operating Officer, Ms Casey. However, according to the Head of Procurement, Ms Casey instructed that the draft evaluation scores be sent to her. The Head of Procurement states that the purpose of sending the draft scores to Ms Casey was to enable Ms Casey to either approve the draft scores or to amend the scores as she saw fit. The Head of Procurement considered this to be an important control as the Procurement staff undertaking the evaluations were not specialists in HR and Ms Casey had an HR background.
- 143 In the event, Ms Casey did not request changes to the scores and signed the final procurement evaluation report, which recommended that RKC Associates be awarded the contract. However, Ms Casey should have played no role in the tender process as she had already recognised and informed the Procurement Department that she could not act impartially because Ms Chana had been reporting to her over the period of her past consultancy engagements at the UHB.

- 144 More fundamentally, in my view, Ms Casey was unable to act objectively and impartially in respect of the procurement process because, as set out in [paragraphs 110 to 122](#), Ms Casey was aware that Ms Chana had already been engaged to deliver the contract being tendered. Ms Casey should not have played any role in initiating a tender process or in evaluating the tenders. I consider that Ms Casey had an actual conflict of interest in respect of this matter.
- 145 Ms Casey disputes that she was involved in the tender process and states that: ‘she was not asked to nor did she assume responsibility for the competitive tender process’. Ms Casey further states that she was on leave abroad from 18 December 2015 to 30 December 2015, the period in which the contract opportunity was tendered, and that the only recollection she has of the tender evaluation process was to ask the Procurement Department to undertake the evaluation process.
- 146 I consider, however, that Ms Casey’s account is inconsistent with the contemporaneous documentation and the accounts of other officers of the UHB. All of which strongly support the position that Ms Casey was directly involved in both initiating the procurement process and participated in the tender evaluation process. My conclusion is based upon the following:
- as set out in [paragraph 140](#), the Head of Procurement provided me with a file note dated 22 December 2015 of a telephone conference held between the Head of Procurement, Ms Casey and the UHB’s Assistant Director of Finance, which records that Ms Casey informed the Head of Procurement of the contract specification to be advertised and that Ms Casey requested that the procurement process be progressed urgently. Both the Assistant Director of Finance and Ms Casey have confirmed that this phone conference took place.
 - the draft procurement evaluation report dated 7 January 2016 includes a space for Ms Casey’s signature at the end of the report, indicating that Procurement considered that Ms Casey was the commissioning/ initiating officer.
 - the Head of Procurement has told me that the draft tender evaluation pack was sent to Ms Casey, at her request, to confirm or amend the tender evaluation scores, and a file note retained by the Procurement Department dated 22 December 2015 records that Ms Casey ‘requested that Procurement undertake the evaluation and send draft to [Ms Casey] for review’.
 - the final version of the procurement evaluation report dated 27 January 2016 was signed by Ms Casey on 1 February 2016 recommending that RKC Associates be awarded the contract. Ms Casey signed this document as the UHB officer responsible for this contract.

- the Head of Procurement has provided me with a declaration of interest form signed by Ms Casey in respect of the procurement process. The only officers requested by the Procurement Department to complete a declaration of interest form are those involved in the tender evaluation process. Ms Casey completed the form to record that she had no interests to declare.

The contract was awarded on 12 February 2016 but the contract start date was inappropriately backdated to 4 January 2016

147 As set out in paragraphs 123 to 132, the contract was awarded to RKC Associates on 12 February 2016, but the contract documentation was backdated by the Procurement Officer to show a contract start date of 4 January 2016, two days before the deadline for receipt of tenders. The Procurement Officer states that she received an instruction to backdate the contract documentation on the basis that the consultant had already commenced work on site before that date. The Procurement Officer cannot recall who gave the instruction or when that instruction was given. I have therefore been unable to determine who issued this instruction. Nevertheless, the fact that the Procurement Officer continued to progress the procurement process to contract award after she became aware that the consultant was already delivering the contract, calls into question the Procurement Officer's objectivity regarding the procurement process. Furthermore, in my view, the integrity of the procurement process was fundamentally compromised.

RKC Associates had a significant advantage in the tender process as the contract specification directly followed on from previous contracts RKC Associates had been awarded by the UHB in November 2014 and June 2015 without competition and in breach of the UHB's SFIs

148 In my view, RKC Associates had a significant advantage in the tender process. The two specific deliverables of the contract opportunity advertised on 23 December 2015 were to implement the plans:

- to reduce sickness absence; and
- to improve the recruitment process.

149 The plans referred to were plans which RKC Associates had been required to produce and implement by May 2015 under the contract it had been awarded by the UHB in November 2014. RKC Associates had also been contracted to implement these plans in the contract it had been awarded by the UHB in June 2015. The contracts awarded to RKC Associates in November 2014 and June 2015 had been awarded without competition and in breach of the UHB's SFIs.

The Procurement Department failed to keep adequate documentation of the procurement process

- 150 When undertaking a procurement exercise, those involved in procurement decisions must maintain good documentation to show what decisions have been taken, who made those decisions and the reasons for those decisions. This is critical if the UHB is to be able to demonstrate transparency and objectivity in decision making.
- 151 In my view, the documentation maintained and/or retained by the Procurement Department in respect of the HR consultancy contract awarded to RKC Associates in February 2016, was deficient in some key respects:
- whilst the Procurement Department maintained a matrix showing how tenderers were scored against the evaluation criteria, in my view, the narrative recorded for assessing the qualitative aspects of the tenders, (80% of the total marks) does not provide sufficient information to justify the scores allocated. This concern is accentuated by the fact that the procurement staff who carried out the initial scoring of the tenders had no specialist knowledge of HR consultancy. The Head of Procurement has told me that the scores were authorised by Ms Casey who 'is an HR professional'. Whilst Ms Casey signed the procurement evaluation report, no evidence has been provided to me to indicate that Ms Casey carried out a professional, specialist HR assessment of the scores awarded by the Procurement Department,
 - as set out in [paragraph 135](#), the Head of Procurement maintains that the Chief Operating Officer requested that the draft tender evaluation scores be sent to her for acceptance or amendment. The Head of Procurement states that the Procurement Department did not retain a hard copy of the draft tender evaluation pack sent to Ms Casey, and that the electronic versions of the draft procurement evaluation report and request for approval document contained within that pack were overwritten when these documents were finalised. Several months after auditors acting on my behalf requested these key documents, the Procurement Department managed to locate a hard copy of the draft procurement evaluation report.
 - as set out in [paragraph 127](#), the Procurement Officer maintains that she was instructed by telephone that the procurement evaluation report dated 27 January 2016 and the contract award letter sent to RKC Associates on 12 February 2016 should stipulate that the contract period was 4 January 2016 to 31 March 2016. This was despite the fact that the deadline for receipt of tenders was 6 January 2016. Whilst the Procurement Department holds a file note recording that an instruction was given, the file note is not dated nor does it record who gave the instruction.

- the request for approval sent to Ms Casey's Executive Assistant on 28 January 2016 by the Procurement Department stated that the total value of the contract to be awarded to RKC Associates was £45,000 + VAT. The Procurement Department holds no written record to support the contract value. Furthermore, this value is inconsistent with the tender submitted by RKC Associates, which indicated that the work would cost £52,000 + expenses + VAT (based on four days a week for 13 weeks at £1,000 a day + VAT). The Head of Procurement has told me that the difference was due to Procurement becoming aware that Ms Chana would be taking leave during the contract period. The Head of Procurement has told me that the Procurement Officer was informed of this by a UHB officer, but did not keep a file note of the conversation and cannot recall who spoke to her.
- the Head of Procurement has stated that the contract specification was instructed by Ms Casey in a telephone conference on 22 December 2015 and she has provided me with a file note of the discussion which took place. Nevertheless, the Procurement Department should have requested confirmation in writing of the specification from the individual authorising the commencement of a procurement process in advance of advertising the contract.

152 During the course of my audit, I was disappointed with the responses received from the Procurement Department in respect of audit requests for information and documentation needed for my audit. The Procurement Department has failed to locate documents requested, stated that some documents did not exist and subsequently found them and provided inconsistent answers to audit questions. In short, the Procurement Department did not maintain an adequate audit trail in respect of the procurement in question. I have previously set out concerns regarding the standard of documentation maintained by the Procurement Department when reporting my audit of the accounts of the UHB for 2012-13, 2013-14 and 2014-15. The Head of Procurement has acknowledged that the standard of documentation in respect of the procurement should have been better and that, in hindsight, several things should have been done differently during the procurement process.

153 The Head of Procurement has told my auditors that since this audit commenced the Procurement Department has introduced a number of measures to improve internal procurement processes and documentation including:

- providing training for all procurement staff with particular emphasis on escalation and challenge;
- clarifying and improving contract approval processes, including a requirement for all consultant/interim appointments to be approved by the Chief Executive;

- undertaking local quarterly audits of OJEU and sub-OJEU procurements, (in addition to existing audits);
- amending procurement documentation to clarify procurement approval hierarchies; and
- the Procurement Department has applied for ISO 9001 quality management accreditation in respect of the UHB's procurement processes and an accreditation assessment is due to take place in September 2017.

The UHB delayed seeking formal written approval for the fixed-term appointment of a new Director of Workforce and Organisational Development resulting in the UHB incurring unnecessary expenditure on a consultancy contract

- 154 In September 2015, the UHB commenced a process to appoint a new Director of Workforce and Organisational Development following the resignation of the previous post-holder. On 30 September 2015, the UHB advertised the post with a deadline for receipt of applications of 6 November 2015. Ms Chana, the owner of RKC Associates states that she was approached by the then Chief Executive, Professor Cairns, in December 2015 who asked her to consider applying for the post (although the deadline for applications had passed). Ms Chana says that that she informed the then Chief Executive after the Christmas 2015 holidays that she was willing to apply for the role 'if the salary and flexible working needs could be met'. I have commented on the recruitment process followed by the UHB in [paragraphs 167 to 187](#).
- 155 On 13 January 2016, Ms Chana was interviewed for the permanent position of Director of Workforce and Organisational Development by a recruitment panel. The Welsh Government's Director of Workforce and Organisational Development for NHS Wales, (who was on the recruitment panel in her capacity as the Head of Profession for Workforce and Organisational Development in NHS Wales) has told my auditors that she was not satisfied that Ms Chana had fully demonstrated the competencies required for a permanent appointment and therefore made it clear that the UHB could not offer Ms Chana a permanent position. She states that she suggested to the other members of the recruitment panel that the UHB could offer Ms Chana a one-year, fixed-term appointment with the condition that the post would be re-advertised and subjected to open competition before the end of the one-year period. Having discussed this, the recruitment panel agreed to offer the position to Ms Chana on the suggested basis.

- 156 At some point between the recruitment panel meeting of 13 January 2016 and a meeting of the UHB's Board on 28 January 2016, Ms Chana was verbally offered the position of the UHB's Director of Workforce and Organisational Development. I have not been able to ascertain the date or the terms of this offer.
- 157 On 28 January 2016, the then Chief Executive, Professor Cairns, verbally informed a meeting of the UHB's Board that Ms Chana 'had been appointed to the Executive post after open competition'.
- 158 On the same day, 28 January 2016, Professor Cairns wrote to the Chief Executive of NHS Wales regarding the appointment stating that Ms Chana 'performed excellently at interview and I am delighted to be able to offer her the role.' and that Ms Chana 'is seeking to secure a salary of £150k. The current range for the role is up to £134k. I am therefore looking for your support to enable the Board to offer this post, subject to all the usual qualifications, at the rate of £150k'. As the proposed salary was above the Welsh Government's approved salary range of £125,000 to £134,000 for NHS executive directors, the UHB needed Welsh Government approval to appoint at the higher salary level.
- 159 However, the letter to the Welsh Government did not refer to a fixed-term appointment and, as Ms Chana was deemed not to have met the standard required for a permanent appointment in the assessment process, the Welsh Government was unable to approve Ms Chana's appointment to a permanent post regardless of salary. The Welsh Government's Director of Workforce and Organisational Development for NHS Wales advised the Chief Executive of NHS Wales that the letter was inconsistent with the recruitment panel agreement and it was conveyed to Professor Cairns that the Welsh Government would only be prepared to support a request for approval of the salary level if that request was for a one-year fixed term appointment in line with the panel's agreed outcome.
- 160 On 2 February 2016, Professor Cairns provided a written report to the UHB's Remuneration and Terms of Service Committee stating that Ms Chana: 'has now been verbally offered the post on an initial 12-month contract' and was seeking the Committee's approval to offer Ms Chana a salary of £150,000 subject to Welsh Government approval.
- 161 The Remuneration and Terms of Service Committee ratified the salary arrangements to be offered to Ms Chana subject to Welsh Government approval (based on a one-year fixed-term appointment).

- 162 On 5 January 2016, Ms Chana had submitted a tender to undertake HR consultancy work at the UHB. This contract was not awarded until 12 February 2016. However, the Remuneration and Terms of Service Committee had approved Ms Chana's appointment as Director of Workforce and Organisational Development on 2 February 2016 subject to Welsh Government approval and the Board had been informed of Ms Chana's appointment to the post on 28 January 2016. The appointment of Ms Chana to the post of Director of Workforce and Organisational Development should have been a material factor in the decision on whether to award a further consultancy contract to RKC Associates. The UHB had the option to cancel or delay the procurement process to enable Ms Chana to take up the post of Director of Workforce and Organisational Development. Nevertheless, Ms Chana was awarded a further consultancy contract with a three-month duration.
- 163 As set out in [paragraph 158](#), Professor Cairns wrote to the Welsh Government on 28 January 2016 seeking support to appoint Ms Chana as the UHB's Director of Workforce and Organisational Development on a salary of £150,000, but the Welsh Government's Director of Workforce and Organisational Development for NHS Wales, having received a copy of the letter, told Professor Cairns that a request to approve the salary for a permanent appointment could not be considered and that she would only be prepared to support a proposal for a one-year fixed-term appointment, as had been agreed by the recruitment panel. However, Professor Cairns did not write to the Chief Executive of NHS Wales requesting approval for a fixed-term appointment with an annual salary of £150,000 until 15 April 2016.
- 164 The Welsh Government's Director of Workforce and Organisational Development for NHS Wales states that in the intervening period she sought updates from the UHB regarding the proposed appointment but she is uncertain as to why the UHB did not submit a request for approval to appoint on a fixed-term basis at a salary of £150,000 until 15 April 2016. The Chief Executive of NHS Wales replied to Professor Cairns' letter of 15 April 2016 on 21 April 2016 approving the appointment at a salary of £150,000.
- 165 Professor Cairns wrote to Ms Chana on 4 April 2016 formally offering her the post of Director of Workforce and Organisational Development and Ms Chana commenced work as an employee of the UHB on 6 April 2016. This was in advance of Professor Cairns writing to the Chief Executive of NHS Wales to seek approval on 15 April 2016, and to receiving approval for the salary from the Chief Executive of NHS Wales on 21 April 2016.

166 It is unclear why Professor Cairns did not write to the Welsh Government until 15 April 2016 to seek approval for a fixed-term appointment at a salary of £150,000. The former Chief Executive told me that he could not recall the reason for the delay, and that it was probably an administrative issue. However, in view of the other matters outlined in this report, the possibility cannot be ruled out that the purpose of the delay was to enable Ms Chana to undertake the three-month consultancy contract resulting in unnecessary additional expenditure by the UHB. Ms Chana's remuneration as an employee of the UHB would have been less than the amount she received from the consultancy contract (£1,000 + VAT per day).

The process followed by the UHB that led to the appointment of the owner of RKC Associates to the position of Director of Workforce and Organisational Development in April 2016 was fundamentally compromised, lacked transparency and was poorly documented

167 As set out in [paragraph 4](#), on 30 September 2015, the UHB's former Director of Workforce and Organisational Development who had been on secondment to another NHS organisation left the employment of the UHB. The UHB then commenced a process to appoint a new Director of Workforce and Organisational Development using recruitment consultants to support the process.

168 Despite a national advertisement campaign, the interest shown in the position was very limited. Three candidates were shortlisted for a panel interview that was scheduled to take place on 7 December 2015. Shortly before the planned panel interviews, two of the shortlisted candidates withdrew from the process. In consequence, the recruitment process was placed on hold until January 2016. Ms Chana told my auditors that she was tasked by the former Chief Executive, Professor Cairns, with taking the recruitment process forward and that the UHB's Workforce Governance Manager was asked to provide co-ordination and administrative support to Ms Chana.

169 Ms Chana states that she was approached by Professor Cairns after the first two shortlisted candidates withdrew in December 2015 and he encouraged her to apply for the post. Ms Chana states that she informed Professor Cairns that she would consider whether to apply over the Christmas/New Year holiday and that, after this period, she informed him that she would apply subject to agreement of salary and flexible working terms. She also states that at this point she advised Professor Cairns that in view of her candidacy it would no longer be appropriate for her to oversee the recruitment process.

- 170 On 4 January 2016, the remaining shortlisted candidate withdrew with the result that Ms Chana was the only candidate for the post. On 13 January 2016, Ms Chana was interviewed by a recruitment panel for the permanent position of Director of Workforce and Organisational Development which comprised the UHB's then Chief Executive, the Chair of the UHB, an independent member of the UHB's Board and the Welsh Government's Director of Workforce and Organisational Development for NHS Wales (in her role as the Head of Profession for Workforce and Organisational Development in NHS Wales). The Welsh Government's Director of Workforce and Organisational Development for NHS Wales recalls that she was only informed at the beginning of the week commencing 11 January 2016 that there was only one candidate, and that candidate was Ms Chana, who had not originally applied for the role.
- 171 The Welsh Government's Director of Workforce and Organisational Development for NHS Wales told my auditors that following Ms Chana's interview she told the other members of the panel that as Head of Profession she considered that Ms Chana had not demonstrated the full range of competencies required of the role. Consequently she was not willing to support Ms Chana's appointment to the post on a permanent basis.
- 172 The Welsh Government's Director of Workforce and Organisational Development for NHS Wales states that she suggested that the UHB could offer Ms Chana a one-year fixed-term appointment on the condition that the post would be re-advertised and subjected to an open competitive process before the end of the one-year period. She recalls that the recruitment panel discussed this proposal and there was agreement to this way forward.
- 173 As set out in [paragraph 157](#), on 28 January 2016, the UHB's then Chief Executive, Professor Cairns, informed the UHB's Board that Ms Chana 'had been appointed to the Executive post after open competition'. The minutes do not state that the appointment was for an interim period, nor do they refer to the need to obtain approval from the Welsh Government for the appointment. As set out in [paragraph 158](#), on the same day Professor Cairns wrote to the Chief Executive of NHS Wales seeking the support of the Welsh Government to appoint Ms Chana to the post at a salary level of £150,000. The letter made no reference to the request being for a fixed-term appointment. The Welsh Government's Director of Workforce and Organisational Development for NHS Wales has told me that on receipt of a copy of this letter she advised the Chief Executive of NHS Wales that the letter was inconsistent with the recruitment panel agreement and this was conveyed to Professor Cairns.

- 174 On 2 February 2016, the UHB's Remuneration and Terms of Service Committee considered a written report from Professor Cairns that stated that: 'Ms Chana has now been verbally offered the post on an initial 12-month fixed-term contract'. It also stated that as the proposed salary of £150,000 was above the Welsh Government's approved salary range of £125,000 to £134,000 for NHS executive directors, approval had been sought from the Welsh Government to pay the higher rate. The letter dated 28 January 2016 from Professor Cairns to the Chief Executive of NHS Wales seeking approval for Ms Chana's appointment was referred to and appended to his written report. The report recommended that Remuneration and Terms of Service Committee ratify: 'the salary arrangements to be offered to Ms Chana subject to Welsh Government approval'.
- 175 At its meeting on 2 February 2016, the Remuneration and Terms of Service Committee received a verbal update from Professor Cairns in which he told the Committee that Ms Chana had been 'successfully interviewed' and 'was seeking a salary of £150k per annum'. He also told the Committee that Ms Chana: 'had agreed a flexible working arrangement which would allow Ms Chana to lead on and role model remote working. The post has been offered on an initial 12-month fixed-term contract which would allow both parties to determine if this flexible working arrangement would work in the long-term, subject to Welsh Government sanction of the starting salary.'
- 176 On 6 April 2016, Ms Chana formally commenced employment as the UHB's Director of Workforce and Organisational Development, albeit the UHB did not seek formal approval from the Welsh Government for the fixed-term appointment at a salary level of £150,000 until 15 April 2016.
- 177 The process followed by the UHB that led to the appointment of Ms Chana to the position of Director of Workforce and Organisational Development in April 2016 was fundamentally compromised, lacked transparency and was poorly documented for the reasons set out below.

It is unclear why the UHB decided to proceed with a recruitment process for a Board level position with only a single candidate who had not applied for the position when it was originally advertised

178 The UHB has not provided any documentation setting out how or why the decision was taken to progress the recruitment process for the post of Director of Workforce and Organisational Development when there was only a single candidate for the post. The post was a Board level position, and the only candidate interviewed had not applied for the post when it was originally advertised. Whilst UHB officers have stated that the response to the original advertisement was poor, the remuneration level agreed with Ms Chana was significantly greater than that originally advertised. In my view, it is possible that if the UHB, following the initial unsuccessful recruitment campaign, had sought approval from the Welsh Government to seek interest to appoint with an improved remuneration package, there may have been greater interest in the opportunity. I have not been provided with a convincing explanation as to why the UHB did not take this course of action.

The recruitment process was poorly documented and as a consequence it is not clear when the person who had been overseeing the recruitment exercise became a candidate

- 179 On 11 January 2016, Ms Chana wrote to the UHB's Chief Executive, Professor Cairns, formally applying for the post of the UHB's Director of Workforce and Organisational Development and enclosing her CV. This was just two days before Ms Chana was interviewed. It is clear from internal e-mails that Ms Chana was already being treated as the only candidate before 11 January 2016.
- 180 As set out in [paragraph 170](#), the sole remaining candidate who had originally applied for the position, withdrew her application on 4 January 2016. Nevertheless, internal e-mails show that the UHB continued to progress the recruitment process in the days immediately following this, and Ms Chana was the only possible candidate from 4 January 2016. On 7 January 2016, the UHB's Workforce Governance Manager wrote to Ms Chana informing her of the presentation title for the panel meeting on 13 January 2016, and stating that the then Chief Executive, Professor Cairns, 'has asked me to get a copy of the CV for the panel'. At this point she had not yet submitted an application for the post. I therefore consider that Ms Chana was already a candidate before she formally applied for the role on 11 January 2016.

181 Whilst it is clear that Ms Chana was a candidate for the post in early January 2016, the records kept by the UHB do not provide a clear picture of how and when Ms Chana became a candidate for the recruitment process which she had been overseeing. In consequence, I have been unable to completely satisfy myself that Ms Chana was not overseeing the recruitment process after she became a candidate. Ms Chana has told me that she agreed to become a candidate after the Christmas/New Year holiday and that she withdrew from overseeing the recruitment process when she became a candidate.

The integrity of the recruitment process was compromised because the sole candidate had access to some of the assessment questions in advance of being interviewed for the position

182 Whilst overseeing the recruitment process, Ms Chana was supported by the UHB's Workforce Governance Manager. The Workforce Governance Manager's responsibilities included developing possible questions to be asked of candidates by the recruitment panel. On 15 December 2015, the Workforce Governance Manager sent Ms Chana an early draft of suggested questions, and a proposed topic that candidates would be expected to present on. The topic sent to Ms Chana was the one Ms Chana was asked to present on at the recruitment panel on 13 January 2016. Some of the questions sent to Ms Chana on 15 December 2015 were also used at the panel. It is probable that on 15 December 2015, Ms Chana was not a candidate for the post of Director of Workforce and Organisational Development. However, once the UHB became aware that the individual leading the recruitment process had become a candidate, every effort should have been made to ensure the integrity of the process was not compromised. It is clear that no such action was taken. Contemporaneous e-mails between Ms Chana and the Workforce Governance Manager indicate that discussions regarding the possible interview questions were ongoing up until 6 January 2016.

183 On 6 January 2016 the Workforce Governance Manager wrote to Ms Chana stating: 'I need to get interview pack etc out to the panel in the next day or two. I'll continue with the questions as we discussed previously'. At this point in time, Ms Chana was already a candidate for the post. The possibility cannot therefore be discounted that Ms Chana had access to the final interview questions in advance of her assessment. Furthermore, Ms Chana was asked to present to the subject of: 'What will your approach be to developing the flexible and prudent workforce we are going to need to deliver our Shaping Our Future Wellbeing strategy.' Ms Chana's CV, which she submitted to the UHB for the purpose of the recruitment exercise, lists as one of her achievements: 'Aligned the

workforce strategy and resources to the new corporate strategy “Shaping Our Future Wellbeing 2015- 2025”.’ Ms Chana was therefore asked to present on the same subject that she had been working on at the UHB under her consultancy contract.

The information provided to the Board and its Remuneration and Terms of Service Committee regarding the appointment was inaccurate, incomplete and inconsistent

184 As set out in [paragraph 157](#), the minutes of a meeting of the UHB’s Board held on 28 January 2016 record that the then Chief Executive gave an oral report stating that: ‘the Interim Director [of Workforce and Organisational Development] had been appointed to the Executive post after open competition’. This statement was misleading for the following reasons:

- it does not reflect the agreement of the recruitment panel that Ms Chana would only be offered an interim contract; and
- it does not refer to the need to obtain approval for the proposed salary range from the UHB’s Remuneration and Terms of Service Committee and from the Welsh Government (as the proposed salary was outside the Welsh Government approved range).

185 As set out in [paragraphs 174 to 175](#), the proposal to appoint Ms Chana as the UHB’s Director of Workforce and Organisational Development on a one-year basis on a salary of £150,000 was put before the UHB’s Remuneration and Terms of Service Committee meeting of 2 February 2016. Neither the Chief Executive’s report to the Remuneration and Terms of Service Committee meeting of 2 February 2016, nor the minutes of that meeting refer to the fact that Ms Chana was the only candidate interviewed for the role. Furthermore, the Chief Executive’s report to the Committee states that Ms Chana ‘performed excellently at interview’ but does not mention the reservations expressed by the Welsh Government’s Director of Workforce and Organisational Development for NHS Wales regarding Ms Chana’s performance at interview, nor the fact that the panel concluded that Ms Chana could not be offered the executive director post on a permanent basis at that time.

- 186 Whilst both the Chief Executive's report and the minutes state that the appointment was for a one-year period, neither record the fact that this was because the Welsh Government's Director of Workforce and Organisational Development for NHS Wales had been unwilling to support a permanent appointment, and that the post would need to be re-advertised at the end of that period. The minutes of the Remuneration and Terms of Service meeting appear to suggest that the reason why a fixed-term contract had been offered to Ms Chana was to determine whether the remote working arrangements would work for both the UHB and Ms Chana in the long-term. The Welsh Government's Director of Workforce and Organisational Development for NHS Wales is clear that the principal reason a one-year contract was offered was because Ms Chana 'was not above the line for the process' and the panel concluded after some discussion that they could not offer a permanent appointment.
- 187 There is inconsistency between the Chief Executive's report to the Remuneration and Terms of Service Committee which proposes that Ms Chana be appointed on a one-year basis, and the letter dated 28 January 2016 appended to the report from the UHB's then Chief Executive to the Chief Executive of NHS Wales, which makes no mention of a fixed-term appointment.

Appendix 1 – Summary of consultancy contracts awarded to RKC Associates and the specified contract deliverables

Exhibit 1: summary of consultancy contracts awarded to RKC Associates

	Contract period	Contract deliverables
Contract 1	1 December 2014 to 31 May 2015	<ul style="list-style-type: none"> • Senior level interim support to the Directorate of Workforce and Organisational Development. • Review with the aim of making more efficient and effective the recruitment process. • Review with the aim of making more efficient and effective the managing attendance process. <p>The contract includes three project phases: Phase 1: Analysis, review and diagnosis (December 2014 to January 2015) Phase 2: Action planning workshops and plan approval (January 2015 to February 2015) Phase 3: Plan implementation (March 2015 to May 2015)</p>
Contract 2	9 June 2015 to 4 December 2015	<ul style="list-style-type: none"> • Provide senior level interim support to the Directorate of Workforce and Organisational Development. • Implementation of the plans to reduce sickness absence to ensure the realisation of the required benefits, utilising best practice methodologies. • Implementation of the plans to improve the recruitment process to ensure the realisation of the required benefits utilising best practice methodologies. • Provide interim support in relation to other priority areas which may arise. Any such support will be undertaken with agreement.
Contract 3	4 January 2016 to 31 March 2016	<ul style="list-style-type: none"> • Senior level interim support to the Directorate of Workforce. • Implementation of the plans to reduce sickness absence. • Implementation of the plans to improve the recruitment process and retention.

Appendix 2 – Payments made by the UHB to RKC Associates for HR consultancy work undertaken from 11 November 2014 to 31 March 2016 (exclusive of VAT)

Exhibit 2: payments made by the UHB to RKC Associates for HR consultancy work

	Consultancy at daily rate	Expenses	Total	Days worked
Contract 1	£104,000	£10,625	£114,625	104
Contract 2	£101,000	£9,888 - £11,078*	£110,888 - £112,078	101
Contract 3	£59,500	£4,606 - £5,796*	£64,106 - £65,296	59.5
Total	£264,500	£26,309	£290,809	264.5

*it is not evident from the invoices submitted by RKC Associates whether certain expenses relate to Contract 2 or 3.

Appendix 3 – Examples of breaches of the UHB’s SFIs in the award of contracts to RKC Associates in November 2014 and June 2015

SFI requirement	Process followed in award of contracts to RKC Associates in November 2014 and June 2015
<p>Procurement of all works, goods and services in excess of £25,000 exclusive of VAT is to be by competitive tendering. (Schedule 1 Para 4.1)</p>	<p>HR consultancy contracts in excess of £25,000 exclusive of VAT were awarded without any competitive tendering process.</p>
<p>The Director of Finance has the responsibility to establish that all firms on the tender list are financially sound and professionally competent through a pre-qualification / financial vetting process undertaken by a suitably qualified and experienced procurement officer. (Schedule 1 Para 5.1)</p>	<p>Neither the UHB’s finance or procurement functions had any involvement in the procurement of RKC Associates and there is no record that any financial or professional vetting of RKC Associates took place.</p>
<p>In accordance with best practice, the LHB should invite a minimum of four companies to tender for contracts of value between £25,000 and the prevailing OJEU threshold. (Schedule 1 Para 5.1)</p>	<p>No tenders were sought or obtained.</p>
<p>Single tender action shall only be permitted when a single firm or contractor or a propriety item or service of a special character is required and as set out in law. Single tender action shall only be employed following a formal submission and with the express written authority of the Chief Executive or designated deputy having taken into consideration due regard of procurement requirements. A detailed record shall be maintained by the Chief Executive. All single tender action and extension of contracts must be reported to the Audit Committee. (Schedule 1 Para 5.1)</p>	<p>RKC Associates was the only supplier approached to deliver the contract. The consultancy services required were not unique and there was a competitive market available. The service could not therefore be procured through a single tender action. There is no written authority for a single tender action, no record has been maintained of a single tender action and no report has been made to the UHB’s Audit Committee.</p>

SFI requirement	Process followed in award of contracts to RKC Associates in November 2014 and June 2015
<p>Subject to complying with any legal requirement and agreed contract conditions, a contract may be extended on a single occasion providing the additional cost does not exceed 50% of the original value of the contract to a maximum of £75,000 exclusive of VAT. Such extension must have the express approval of the Chief Executive or designated deputy in their absence. Where a contract was advertised and includes a legal clause providing the option to extend, such approval is not required unless there is a change to any of the current contract terms and conditions including price. Any contract extensions must be reported to the Audit Committee. (Para 10.8)</p>	<p>The contract awarded to RKC Associates in June 2015 was essentially a continuation of the contract awarded to RKC Associates in November 2014. The value of the extension was in excess of £75,000 + VAT and exceeded 50% of the value of the November 2014 contract. Neither contract was subjected to competition.</p>
<p>Every invitation to tender should be accompanied by the LHB's standard contract terms and conditions, and the basis on which the LHB shall engage in business with the contractor. Where appropriate a customised contract can be developed by senior procurement officials with appropriate legal advice and subject to approval by the Director of Finance. (Schedule 1 Para 5.4)</p>	<p>The UHB had adopted 'NHS Wales Conditions of Contract for the Supply of Services' but these were not used. The Chief Operating Officer signed contracts on behalf of the UHB which had been drafted by Ms Chana of RKC Associates. No advice was sought from either the UHB's Procurement or Legal Departments prior to signing these contracts.</p>
<p>In every contract document a clause shall be included to secure that the LHB shall be entitled to cancel the contract and recover from the contractor the amount of any loss resulting from such cancellation, if the contractor shall have prepared his tender in collusion with others, or shall have offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward. (Schedule 1 Para 13.2)</p>	<p>The contracts entered into with RKC Associates in November 2014 and June 2015 were drafted by RKC Associates and these contracts did not include anti-collusion clauses.</p>

SFI requirement	Process followed in award of contracts to RKC Associates in November 2014 and June 2015
<p>Prior to any officer entering into [pre-tender discussions], advice must be sought from the procurement department who should also be afforded the opportunity to be party to any discussions. (Schedule 1 Para 6.2)</p>	<p>The UHB's Chief Operating Officer and Chief Executive met with Ms Chana, the owner of RKC Associates, shortly before RKC Associates was awarded a contract in November 2014. No record has been retained of the discussions which took place, no advice was sought from the Procurement Department before the meeting took place and the Procurement Department was not invited to be present at this meeting.</p>
<p>Should any difficulties arise regarding the interpretation or application of any of the SFIs then the advice of the Board Secretary or Director of Finance must be sought before acting. (Para 1.1.4)</p>	<p>No advice was sought from either the Board Secretary or the Director of Finance regarding the interpretation or application of the SFIs in respect of contracting with RKC Associates.</p>
<p>Full details of any non-compliance with these SFIs, including an explanation of the reasons and circumstances, must be reported in the first instance to the Director of Finance and the Board Secretary, who will ask the Audit Committee to formally consider the matters and make proposals to the Board on any action to be taken. All Board members and LHB officers have a duty to report any non-compliance to the Director of Finance and Board Secretary as soon as they are aware of any circumstances that have not previously been reported. (Para 1.2.1)</p>	<p>The instances of non-compliance with SFIs as set out in this table were not reported to the Board Secretary, Director of Finance, Audit Committee or Board.</p>

Appendix 4 – HM Treasury Review of the tax arrangements of public sector appointees - Summary of recommendations

The review recommends that, in central government departments and their arm's length bodies, for all new engagements and contract renewals:

- board members and senior officials with significant financial responsibility should be on the organisation's payroll, unless there are exceptional circumstances – in which case the Accounting Officer should approve the arrangements – and such exceptions should exist for no longer than six months;
- engagements of more than six months in duration, for more than a daily rate of £220, should include contractual provisions that allow the department to seek assurance regarding the income tax and NICS obligations of the engagee – and to terminate the contract if that assurance is not provided; and
- these measures should be implemented within three months – and implementation will be monitored after one year, reporting back to the Chief Secretary to the Treasury and the Minister for the Cabinet Office; and if it emerges that any departments have not abided by these rules, sanctions will apply – with departmental resource budgets reduced by up to five times the payment in question.

Departments should also seek to apply these principles to existing contracts – subject to ensuring value for money for the taxpayer – and report to Parliament on the outcome as part of the 2012-13 annual report and accounts process.

The Secretaries of State for Health and Education will also consider how to take forward the principles of this approach in the NHS organisations and non-maintained schools that fall under Managing Public Money guidance.

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Evidence Statement for the Public Accounts Committee
Monday, 25 September 2017 14:30
Auditor General for Wales' Report of Cardiff and Vale University Health
Board's Contractual Relationships with
RKC Associates Ltd and its Owner

Introduction

1. Cardiff and Wales University Health Board (the UHB) has received the report of the Auditor General for Wales (the report) dated July 2017, relating to the UHB's contractual relationships with RKC Associates Ltd and its Owner.
2. The UHB is deeply disappointed at the findings of the Auditor General for Wales. We have taken much learning from the report, and from the work that has taken place within the UHB following its publication. The UHB, in conjunction with its colleagues in Procurement and Human Resources / Workforce, has developed a comprehensive action plan to make the necessary further improvements to ensure no similar incidents of this kind occur in the future. This statement seeks to provide the Committee with the assurance that the UHB has learned fully from this incident and taken definite steps to avoid this happening again.
3. The report was discussed openly at the meeting of the UHB's Board on 27 July 2017. It has also been raised at meetings of the UHB Management Executive, Health Systems Management Board, Local Partnership Forum and discussed with Senior Trade Union / Staff Side representatives.
4. Following publication of the report, the UHB's Chair and Chief Executive briefed local and regional Assembly members in July 2017. An update was provided to the Wales Audit Office at a meeting on 2 August 2017 informing it of actions already progressed.
5. The UHB action plan is attached to this statement as Appendix 1. It will be presented to the UHB Board on 28 September 2017 and its Audit Committee on 26 September 2017; the papers for these meetings have already been published and are available to the public. The action plan will thereafter be monitored by the Audit Committee. The action plan has also been shared with the Wales Audit Office.

Background

6. On 1 October 2014, the UHB's Director of Workforce and Organisational Development (WOD) was seconded at short notice to the Wales Ambulance Services Trust as Interim Chief Executive. This was to assist the Wales Ambulance Services Trust as the UHB's Director of WOD had the skills

urgently required by it, and was a developmental opportunity for the individual who aspired to a Chief Executive role.

7. This secondment resulted in a shortfall in the HR leadership capacity. In order to address this, the UHB entered into three contracts with a private company between 1 December 2014 and 31 March 2016 for the provision of HR consultancy services. The owner and sole director of this private company, Ms Chana, was subsequently appointed as the UHB's Director of WOD in April 2016 and left the UHB in November 2016.
8. Three main areas have been called into question within the report: the awarding of the consultancy contracts; the management of the recruitment process to appoint the replacement Director of WOD; and the way in which information was relayed to the UHB Board, its Remuneration and Terms of Service Committee and the Chief Executive of NHS Wales, Dr Andrew Goodall.

Awarding of the Consultancy Contracts

9. Two of the three contracts awarded for the private provision of HR consultancy services, were done so without competitive tendering. The UHB fully accepts that the way in which it procured and managed the consultancy contracts in question was not of the high standard it aspires to, and is rightly expected of it.
10. As acknowledged by the Wales Audit Office, the UHB has a number of detailed policies and procedures covering this area. These are developed to standardise processes based on best procurement practice and set out the governing principles for public procurement, for example, the Scheme of Delegation, Standing Orders, Standing Financial Instructions and Financial Control Procedures. The UHB's Standing Financial Instructions clearly state that, 'procurement of all works, goods and services in excess of £25,000 exclusive of VAT is to be by competitive tendering'.
11. Although the public procurement regulations are complex, Senior UHB officers are expected to be aware of the need for compliance with the rules, and to seek advice if they are unsure as to their applicability. It is clear that services should have been properly procured by competitive tendering. Regrettably our policies were not followed on this occasion, and there was no reference to the UHB's Head of Procurement as provided for in our Scheme of Delegation.
12. Unfortunately it is not fully known why policy was not followed on these occasions. It is clear however that the UHB needs to reinforce the rules, and its officer's roles and responsibilities and must ensure that the organisation fully learns the lessons from this one incident. As a result, the Chair, Chief Executive and Senior Management have critically looked at UHB systems and processes to improve upon them wherever possible.

Action Taken

13. Following the report it has been particularly important to gain assurance that there are no further instances of poor practices. To this end we have engaged with Internal Audit to carry out a review of procurement focusing on contracts that have been let. We are awaiting the outcome of that Audit. In addition we have also carried out an internal review of all manual payments made to Consultants or individuals in the period 2014-17, with an invoice value greater than £5k. A total of 227 contractors / suppliers have been reviewed.
14. Ten contracts of the 227 have been commissioned without procurement oversight over the last 3 years. We have engaged with all of the Lead Officers involved reminding them of the procurement rules and of their responsibility to ensure that these rules are adhered to. Two of these contracts have been referred to NHS Counter Fraud Service Wales.
15. Transparency with UHB staff is crucial, and we are mindful that confidence needs to be regained. The Chief Executive has issued an amnesty, encouraging staff to come forward to him with any other concerns they may have and has provided assurance that anything raised will be explored to further identify lessons to be learned.
16. Our senior staff from the Health Systems Management Board have also been asked to surface any issues whereby there are perceptions that contracts were not let in accordance with procurement rules. Three external Consultancy Contracts were highlighted during this process and each have been looked into. It was found that in all three cases the procurement rules were observed. Two contracts were Direct Awards however in both cases they were taken from the appropriate Framework Agreement, and the Single Supplier justifications to support the Direct Award were approved. The third contract was conducted as a mini-competition via an appropriate Framework Agreement. This mini-competition is also a recognised and valid procurement process.
17. Despite the All Wales policies and procedures, it is clear that additional safeguards are required to ensure compliance. Prior to the report, a review of our processes was already in train in response to changes to the IR35 legislation¹ relating to off-payroll working in the public sector. New process guidance for off-payroll working (attached to this statement as Appendix 2) has been cascaded throughout the UHB following approval by its Management Executive on 14 August 2017.

¹ Her Majesty's Revenue and Customs (HMRC) introduced the 'intermediaries legislation' commonly known as IR35 or off-payroll rules in April 2000. This legislation is intended to combat tax abuse by an individual who would be treated as an employee were it not for the fact that they provide their services via their own company, called 'disguised employees' by HMRC. From April 2017, where a public sector organisation engages an off-payroll worker through their own limited company, that organisation will become responsible for determining whether the rules should apply, and, if so, for paying the right tax and National Insurance Contributions.

18. The process around requesting approval of contracts has been changed with a procurement checklist (attached to this statement as Appendix 3) having been implemented. This checklist sets out a defined approval hierarchy to ensure compliance with Standing Orders and EC Regulations and requires more than one signatory, the Board Secretary signs to confirm process has been complied with together with the Finance Director, and the Chief Executive and Chair will also sign depending on the contract value.
19. A no purchase order, no payment system will be implemented, which will prevent the processing of manual payments. By implementing this policy, the risk of non-compliance with procurement processes is significantly reduced as manual payments will not be processed.
20. All external Consultancy contracts are now signed off by the Chief Executive. We are committed to utilising temporary employment contracts rather than consultancy contracts wherever possible.
21. The current Terms of Reference for the Remuneration and Terms of Service Committee do not provide for the reporting of Consultant appointments. A review of these Terms of Reference will include a requirement to report any Executive level secondments and Consultancy appointments for approval to this Committee.
22. Training on the law, rules and regulations relating to employment and procurement was provided to all Board members at the Board Development Day in August 2017. This training will be provided to the new Independent Board members who are commencing on 1 October 2017. This training is being cascaded at Clinical Board senior management teams and throughout the organisation to Directorate Management level. In addition, a procurement flowchart has been developed for Board and Senior Managers.
23. The Procurement Guide for Staff (Appendix 4), which was developed in conjunction with NHS Wales Shared Services Partnership Procurement Services, and approved through the All Wales Directors of Finance Sub Group, is provided to UHB staff as part of the training delivered by the UHB Procurement Department. This has been reviewed, provided to the Management Executive Team meeting for cascading to Clinical Boards and Corporate Departments and published across the UHB.
24. Even though a procurement process was applied for the third contract, this was deeply flawed. Areas for improvement have been highlighted in relation to maintaining adequate and accurate documentation and strengthening the contract approval process within the UHB. The Chair and Chief Executive have written to those that submitted tenders for this contract to notify them of the findings of the report and apologise for the procurement process falling short of what would be expected.
25. An enhanced training programme for procurement staff, focusing on the conclusions of the Wales Audit Office report, is being delivered. Existing audit

processes within the Procurement Department have been enhanced to verify compliance with contract procedure, 30 audits have been completed to date with no significant issues highlighted. The Procurement Department has also applied for quality management accreditation in respect of its tendering processes.

Management of the Recruitment Process to appoint the replacement Director of WOD

26. On 30 September 2015, the seconded Director of WOD left the employment of the UHB. The UHB commenced a process to appoint a new Director of WOD but despite a national advertisement campaign and using a recruitment agency to undertake a rigorous recruitment process, the interest shown in the position was very limited with only eight people applying. The recruitment agency informed the UHB that the field of potential experienced candidates was very small across the UK and the UHB was not deemed competitive on salary rates for this role within the UK. Three candidates were shortlisted and two subsequently withdrew from the process for different reasons. It was decided to interview the sole remaining applicant.
27. At the same time, Ms Chana was encouraged by Professor Cairns to apply for the post which she did in January 2016. Unfortunately in January 2016 the recruitment agency informed the UHB that the other applicant had also withdrawn meaning Ms Chana became the sole candidate for consideration. It was unfortunate that there was only one remaining applicant for the post however Ms Chana came to the interview with a very good track record of delivery within the organisation that she had secured over the previous 14 months. This was evidenced in the reports to the People Performance and Delivery Committee on 12 May 2015 and 10 November 2015. The report on 10 November 2015 set out the data showing reduction in vacancies and reduction in turnover of staff, increase in statutory and mandatory training and performance and development reviews and reduction in sickness absence, the latter identifying a £600,000 direct cost reduction since January 2015.
28. Ms Chana had been tasked with taking this recruitment process forward. Once she became a candidate, this should have been accounted for in the interview questions and presentation topic. Unfortunately this was not the case and they remained unchanged.
29. The Recruitment Panel unanimously agreed to appoint Ms Chana on a one year fixed term contract. In making this decision it took into account her performance at interview, her track record, her request for some remote working and the mixed views of the panel. This would also allow the UHB to test the market in a year's time.
30. The Remuneration and Terms of Service Committee received a report from the Chief Executive on 2 February 2016 seeking approval for an uplift of salary to £150,000 for a 12 month fixed term contract. The Committee was advised that this was considerably less than the costs attached to the

previous arrangement, that Ms Chana was an experienced interim, that there had been a lack of quality candidates and the recruitment agency had advised that the remuneration offered for the post was not competitive within the overall UK market and relocation expenses would not be incurred. The Committee ratified the salary arrangements to be offered to Ms Chana subject to Welsh Government approval.

31. High level appointments are often challenging to recruit due to small numbers of applicants with the relevant skills and experience. Despite this rarity and pressurized situation, the recruitment process should remain wholly transparent and objective and the report illustrates that the process in this instance should have been better managed which we completely agree with.

Action Taken

32. The UHB has looked at how these senior appointment processes are conducted and how the office of the Chief Executive and Director of Workforce and Organisational Development can work better together to ensure compliance with processes and that satisfactory documentation is maintained.
33. A full review of the procedures used to recruit Executive Directors and other Senior Managers has been undertaken. This has resulted in a revision of the Executive recruitment process to include a clear defined role for the Director of Workforce and Organisational Development, which can be delegated to their Deputy or Director of Corporate Governance if circumstances require or a conflict arises. This change in process was used for the recruitment of the substantive Director of Workforce and Organisational Development in August 2017.

Relaying of Information to the UHB Board and its Committee

34. The UHB fully accepts that information should have been better and more accurately relayed to its Board, Remuneration and Terms of Service Committee and Audit Committee. The Board recognises that it can better support its Independent Board Members in relation to their Committee roles, to equip them to confidently scrutinise decisions and hold the Board to account.
35. The UHB also recognises that it can strengthen the compliance reports provided to its Audit Committee to improve oversight.

Action Taken

36. Training for Independent Board Members, including those sitting on the Remuneration and Terms of Service Committee, covering their roles and responsibilities was delivered in August 2017. Legal and governance training for all Board members on their roles and responsibilities will also be provided at the October 2017 Board Development Day and will be included in the

induction for new Board members. The quality of information and its presentation to the Remuneration and Terms of Service Committee is also under review.

37. The statutory compliance report provided at each Audit Committee has been enhanced to include our compliance with and exceptions to recruitment requirements, Standing Orders and Standing Financial Instructions.
38. A review of our Internal Audit Programme has also been undertaken and appropriate Internal Audit days identified for 2018 to include audits relevant to the issues highlighted in this report, such as procurement practice both retrospective and on-going to test compliance with new processes. The results of these audits will be presented to the Audit Committee and any irregularities pursued with the relevant staff.

Additional Improvements

39. The UHB recognises that policies / procedures and training, whilst the foundation of good practice, are part of a bigger picture that includes a culture of sound behaviours and values, adherence to the rules at all levels of the organization, and an environment that enables individuals to confidently highlight departure from any rules no matter how senior those involved.
40. The UHB introduced a "Safety Valve" system to encourage staff to raise concerns directly with the Chair about patient safety. This has been successful and has developed into a 24/7 telephone line for staff to report concerns, guidance for staff on how to raise concerns and or managers on how to consider concerns. In relation to procurement / governance, the UHB is raising the current Procedure for NHS Staff to Raise Concerns (which includes whistleblowing) at the Directors of Workforce and Organisational Development Group to ensure it adequately provides for staff to raise all concerns, including those referred to in the report regarding non-compliance.
41. An internal protocol is also being developed to provide a system for senior leaders to raise concerns, with clear lines of reporting should a concern relate to the Chair, Vice Chair or Chief Executive. This includes identifying an Independent Member lead.
42. A bulletin will be circulated to the UHB Board and throughout the UHB reinforcing the Nolan principles of Good Governance, duties of probity / candour and the Values and Standards of Behaviour Framework, including Declaration of Interest duties.
43. The UHB is committed to communicating openly and transparently with its staff and all stakeholders about the findings of this report, the actions being taken by the UHB and their progress. This will be achieved via public meetings of the Board / Audit Committee and Local Partnership Forum,

communication bulletins and publishing of the action plan on the UHB intranet and internet for access by all staff and stakeholders. The learning gained from the report will also be beneficial to our wider NHS colleagues and therefore we will openly share our experience and systems developed with other Health Boards and Trusts throughout Wales.

-End-

Action Plan in Response to the Wales Audit Office Report in Respect of Cardiff and Vale University Health Board's Contractual Relationships with RKC Associates Ltd and its Owner

Conclusion 1 - The way in which the Cardiff and Vale University Health Board (UHB) procured and managed HR consultancy contracts awarded to RKC Associates fell well short of the standard that the public has a right to expect of a public body

- a) The UHB failed to comply with its own procurement procedures when it awarded consultancy contracts to RKC Associates in November 2014 and June 2015 and in consequence both the contracts and payments made under them are potentially unlawful.
- b) The award of consultancy contracts to RKC Associates breached public procurement rules.
- c) The UHB failed to undertake due diligence checks of RKC Associates resulting in the UHB being exposed unnecessarily to financial and reputational risk.
- d) The UHB was in breach of its own Standing Financial Instructions when it agreed contracts with RKC Associates which had been drafted by the owner of RKC Associates.
- e) The UHB appointed the owner of RKC Associates to deliver consultancy projects, but the UHB utilised her as a senior member of staff and, in consequence, has potentially over-claimed VAT amounting to £58,162.
- f) As the Officer who signed the contracts with RKC Associates in November 2014 and June 2015, the UHB's Chief Operating Officer had a duty to ensure proper process had been followed. The failure to do so has cast doubt on whether the decisions to award these contracts were based entirely on valid considerations.
- g) The UHB did not exercise effective financial monitoring of its contracts with RKC Associates, with payments exceeding the contracted value and contractual expenses not being verified.

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UHB Response to Conclusion 1

Following publication of the Wales Audit Office report, a full report was received at the UHB's Board meeting on 27 July 2017 and discussion conducted in the public session of that meeting. In addition, the report has been raised at the meetings of our Management Executive (ME) and Health Systems Management Board (HSMB), and discussed with Senior Trade Union / Staff Side representatives and at our Local Partnership Forum (LPF).

As acknowledged by the Wales Audit Office, the UHB has a number of detailed policies and procedures covering this area. These have been developed to standardise processes based on best procurement practice and set out the governing principles for public procurement, for example, the Scheme of Delegation, Standing Orders, Standing Financial Instructions and Financial Control Procedures. Regrettably, these processes were not followed on this occasion, and there was no reference to the UHB's Head of Procurement as provided for in our Scheme of Delegation.

The Procurement Guide for Staff which was developed in conjunction with NHS Wales Shared Services Partnership Procurement Services, and approved through the All Wales Directors of Finance Sub Group in 2015, is provided to UHB staff as part of the training delivered by the UHB Procurement Department and will be further reinforced throughout the UHB.

Prior to the Wales Audit Office report, a review of our processes was already in train in response to changes to the IR35 legislation¹ relating to off-payroll working in the public sector. In addition, the process around requesting approval of contracts has been changed, a procurement checklist that sets out a defined approval hierarchy has been implemented to ensure compliance with Standing Orders and EC Regulations and that more than one signatory is obtained. All external Consultancy contracts are now signed off by the CEO.

The UHB, in conjunction with its colleagues in Procurement and Human Resources / Workforce, has developed this action plan to make the necessary further improvements to ensure no similar incidents of this kind occur in the future. The Action Plan will be presented to the UHB Board on 28 September 2017 and its Audit Committee on 26 September 2017 and will thereafter be monitored by the Audit Committee. The Action Plan has also been shared with Wales Audit Office.

¹ Her Majesty's Revenue and Customs (HMRC) introduced the 'intermediaries legislation' commonly known as IR35 or off-payroll rules in April 2000. This legislation is intended to combat tax abuse by an individual who would be treated as an employee were it not for the fact that they provide their services via their own company, called 'disguised employees' by HMRC. From April 2017, where a public sector organisation engages an off-payroll worker through their own limited company, that organisation will become responsible for determining whether the rules should apply, and, if so, for paying the right tax and National Insurance Contributions.

Conclusion 1 Action Plan	Lead	Completion	Update
Training			
1. Provide training for all Board members on the law, rules and regulations relating to employment and procurement at the August Board Development Day.	Director of Corporate Governance	August 2017	Complete Training delivered on 31 August 2017.
2. Cascade the training provided at Clinical Board senior management teams and throughout the organisation to Directorate Management level.	Executive and Clinical Board Directors	October 2017	Discussed at ME on 4 September 2017.
Review			
3. Undertake review of external consultancy categories in the purchase to pay system for period 2014-2017 to ensure compliance with procurement rules.	Head of Procurement	August 2017	Complete Reports received by CEO and Director of Finance.
4. Review the Procurement Guide for Staff and revise to reflect process changes connected with the IR35 legislation.	Head of Procurement	September 2017	Complete
Process			
Provide the Procurement Guide for Staff to the Management Executive Team meeting for cascading to Clinical Boards, and Corporate Departments.	Director of Finance	September 2017	To be presented to ME on 22 September 2017.
Publish the Procurement Guide for Staff across the UHB and place on intranet and internet for ease of staff access.	Director of Corporate Governance	October 2017	
7. Implement a no purchase order, no payment system to prevent the processing of manual payments.	Head of Procurement	March 2018	Phased implementation, commencing September 2017, full implementation by March 2018.
8. Develop and cascade process guidance for off-payroll working.	Head of Procurement	August 2017	Complete Approved by ME on 14 August 2017, taken to HSMB on 17 August 2017 for cascading by Clinical Board Directors.

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Conclusion 2 - The way in which an HR consultancy contract was awarded to RKC Associates in February 2016, along with the actions of key decision-makers, compromised the integrity of the procurement process

- a) The UHB embarked upon a procurement process for a contract and invited and evaluated tenders for that contract, despite the fact that RKC Associates had been engaged in advance of the tender process.
- b) The robustness and integrity of the advertised procurement process was compromised in several key respects and the UHB's Chief Operating Officer participated in the process despite knowing that RKC Associates had already been engaged in advance of the procurement process commencing.
- c) The Procurement Department failed to keep adequate documentation of the procurement process.
- d) The UHB delayed seeking formal written approval for the fixed-term appointment of a new Director of Workforce and Organisational Development, resulting in the UHB incurring unnecessary expenditure on a consultancy contract.

UHB Response to Conclusion 2

The UHB has taken steps to strengthen its existing processes and extend training at all levels to reinforce the requirements in relation to these areas.

We recognise however that policies / procedures and training, whilst the foundation of good practice, are part of a bigger picture that includes a culture of sound behaviours and values, adherence to the rules at all levels of the organization, checks to ensure this is happening and an environment that enables individuals to confidently highlight departure from any rules no matter how senior those involved. As part of the communication with the UHB following receipt of this report, the CEO has asked staff to share any concerns they may have with him and provided assurance that anything raised will be explored to provide reassurance regarding our systems / processes and decisions made.

Procurement compliance reports are already presented to the UHB's Audit Committee outlining for example Contract Extensions and Single Quotation or Single Tender Actions. Steps are also being taken to put in place more vigorous checks around our processes to flag potential issues and to achieve more robust oversight and business scrutiny by our Management Executive Team, Board and its Committees.

We are committed to utilising temporary employment contracts rather than consultancy contracts wherever possible.

Conclusion 2 Action Plan	Lead	Completion	Update
Training			
1. Develop and deliver an enhanced training programme for procurement staff focusing on the conclusions of the Wales Audit Office report.	Head of Procurement	September 2017	Training underway
2. Obtain quality management accreditation for the Procurement Department in respect of its tendering processes.	Head of Procurement	November 2017	Applied for accreditation, assessment taking place in October 2017.
3. Develop a Procurement flowchart for use by Board and Senior Managers.	Head of Procurement	October 2017	Draft developed, for presentation to ME.
Audit			
4. Enhance existing audit processes within the Procurement Department to verify compliance with contract procedure.	Head of Procurement	September 2017	Frontline Audit Review Guidance produced, 30 audits completed to date with no significant issues highlighted.
5. Review Internal Audit Programme to include audits relevant to the issues highlighted in this report and to test compliance with new processes.	Director of Finance	September 2017	Appropriate Internal Audit days identified in programme for 2018.
Assurance			
6. Enhance the statutory compliance report provided at each Audit Committee to include our compliance with and exceptions to recruitment requirements, Standing Orders and Standing Financial Instructions.	Directors of Finance and Workforce and Organisational Development	September 2017	Report to be presented to September Audit Committee and further developed.
7. Review the Terms of Reference for the Remuneration and Terms of Service Committee to include a requirement to report any Executive level secondments and Consultancy appointments for approval to this Committee.	Director of Corporate Governance	October 2017	

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Conclusion 3 - The process followed by the UHB that led to the appointment of the owner of RKC Associates to the position of Director of Workforce and Organisational Development in April 2016 was fundamentally compromised, lacked transparency and was poorly documented.

- a) It is unclear why the UHB decided to proceed with a recruitment process for a Board level position with only a single candidate who had not applied for the position when it was originally advertised.
- b) The recruitment process was poorly documented and, as a consequence, it is not clear when the person who had been overseeing the recruitment exercise became a candidate.
- c) The integrity of the recruitment process was compromised because the sole candidate had access to some of the assessment questions in advance of being interviewed for the position.
- d) The information provided to the Board and its Remuneration and Terms of Service Committee regarding the appointment was inaccurate, incomplete and inconsistent.

UHB Response to Conclusion 3

High level appointments are not as frequent as other positions within the UHB and are often challenging to recruit due to small numbers of applicants with the relevant skills and experience.

As a result of this report, the UHB has looked at how these senior appointment processes are conducted and how the office of the Chief Executive and Director of Workforce and Organisational Development can work better together to ensure compliance with processes and that satisfactory documentation is maintained.

We also recognise that we can better support our Independent Board Members in relation to their Committee roles, to equip them to confidently scrutinise decisions and hold us to account.

Conclusion 3 Action Plan	Lead	Completion	Update
<p>Review</p> <ol style="list-style-type: none"> Review the procedures used to recruit Executive Directors and other Senior Managers. Review the quality of information and its presentation to the Remuneration and Terms of Service Committee. <p>Process</p> <ol style="list-style-type: none"> Revise the Executive recruitment process to include a clear defined role for the Director of Workforce and Organisational Development which can be delegated to their Deputy or Director of Corporate Governance if circumstances require or a conflict arises. <p>Training</p> <ol style="list-style-type: none"> Arrange training for Independent Board Members, including those sitting on the Remuneration and Terms of Service Committee, covering their roles and responsibilities. This should also provide them with example questions they may wish to ask and the minimum information they may require to assist them in discharging their role. <p>Provide legal and governance training for all Board members on their roles and responsibilities at the October Board Development Day.</p>	<p>Assistant Director of Workforce and Organisational Development</p> <p>Chair and Director of Corporate Governance</p> <p>Chief Executive</p> <p>Director of Corporate Governance</p> <p>Director of Corporate Governance</p>	<p>July 2017</p> <p>September 2017</p> <p>August 2017</p> <p>August 2017</p> <p>October 2017</p>	<p>Complete</p> <p>Complete Used for the recruitment of the substantive Director of Workforce and Organisational Development in August 2017.</p> <p>Complete Included in the programme for the August Board Development Day.</p> <p>Training confirmed and programme planned.</p>

Additional Improvements			
Action Plan	Lead	Completion	Update
Whistleblowing			
1. Review current Procedure for NHS Staff to Raise Concerns which includes whistleblowing to ensure it is fit for purpose and easy for staff to raise any concerns regarding non-compliance.	Director of Workforce and Organisational Development	October 2017	As this is an All Wales Procedure, to be raised at the Directors of Workforce and Organisational Development Group.
2. Develop an internal protocol providing a system for senior leaders to raise concerns, with clear lines of reporting should a concern relate to the Chair, Vice Chair or Chief Executive.	Director of Corporate Governance	October 2017	To be raised at the August All Wales Board Secretaries Group to explore best practice.
Governance and Accountability Framework			
Revise the UHB Governance and Accountability Framework to reflect any amendments by the Directors of Finance All Wales Group to the Standing Financial Instructions and Standing Orders.	Director of Corporate Governance	March 2018	Update provided to Audit Committee in September 2017 and each subsequent meeting.
Review and revise the UHB's Scheme of Delegation.	Director of Finance	October 2017	
Circulate a bulletin to the UHB Board and throughout the UHB reinforcing the Nolan principles of Good Governance and duties of probity / candour and the Values and Standards of Behaviour Framework.	Directors of Corporate Governance and Communications	October 2017	Communications strategy agreed.
Communication			
6. Communicate openly and transparently with staff about the findings of this report, the actions being taken by the UHB and their progress. This will include public meetings of Board / Audit Committee and meetings of LPF, Clinical Board Directors, HSMB and publishing of the action plan on the intranet for access by all staff, supplemented by other communication bulletins.	Chief Executive and Chair	October 2017	Reports at Board, ME, HSMB, LPF. Continued dialogue with Senior Trade Union / Staff Side representatives and CEO communication placed on intranet and internet.

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Off Payroll Procurement Process Guidance

Background

The Government has introduced revised rules in relation to compliance with tax regulations, which took effect from 6 April 2017. These changes have widened the responsibilities of the Cardiff and Vale University Health Board (the UHB) and will impact on any person who is carrying out work and is being paid through any of the following arrangements:

- A self-employed worker (paid gross);
- An agency;
- Personal Service Company (PSC);
- A Partnership

The above arrangements are collectively known as “Off Payroll Working”.

The background to these new measures, was that there had been a long standing concern within HMRC that individuals, who are ostensibly in an employment relationship, who work through an intermediary, such as a PSC, do not fully comply with legislation and are able to avoid employment taxes or national insurance. This was because under the pre April 2017 rules, individuals who had set themselves up as PSC's were entitled to receive payments from “employers” without deduction of tax and national insurance, regardless of the nature of the activities they carried out on behalf of the people who contract with them.

Under the new legislation the UHB now has the responsibility to make the decision whether or not the relationship between itself and the PSC constitutes employment or not and, as a result, also makes the UHB responsible for deducting the right tax and national insurance contributions as a result of such relationships.

In determining whether the employment should be classed as employed for tax purposes, the UHB completes the ‘Check Employment Status for Tax’ online service provided by HMRC

Should the UHB get this wrong the liability for any underpaid tax and national insurance also moves to the UHB.

In addition to the individual contractors, the new legislation places an obligation on the UHB to undertake an assessment of the tasks/duties undertaken by an Agency Workers, via the ‘Check Employment Status for Tax’ online service.

If the assessment indicates that the engagement should be classed as employed for tax purposes, the UHB has to write to the agency to remind them of their obligations

Appendix A

under the Off Payroll legislation and for them to deduct tax and National Insurance from any payments made to anyone engaged via a PSC.

Procurement Process

A flow diagram outlining the Procurement Process for Off Payroll Working is located in Appendix 1. It sets out the responsibilities for the Department requesting the services, Procurement, Payroll, Finance and Workforce. The steps of the process are as follows:

Step 1

When a service requirement is identified that is likely to be delivered via an intermediary the Clinical Board Director, Clinical Board Director of Operations or Executive Director for the relevant Department is required to complete the specification matrix located in Appendix 2.

Step 2

Using the information identified in the specification the Clinical Board Director, Clinical Board Director of Operations or Executive Director will, in conjunction with the Associate Director of Workforce and the Assistant Director of Finance be required to check the employment status of the proposed engagement, using the online tool (<https://www.tax.service.gov.uk/check-employment-status-for-tax/setup>).

The online tool will be run for multiple scenarios if multiple types of companies may be able to provide the service and the means by which the engagement may be carried out is not known at the pre-tender stage. The online tool will need to be undertaken for the following:

- Engagements which may be carried out by a worker operating through a (personal services) limited company
- Engagements which may be carried out by a workers) operating as a partnership
- Engagements which may be carried out by a worker operating through another individual (not an agency)
- Engagements which may to be carried out by a worker operating as a sole trader.

Step 3

Following the completion of the online tool, the Clinical Board Director, Clinical Board Director of Operations or Executive Director is required to send the completed specification matrix including the outcome(s) of the Employment Status Test to the Head of Procurement.

Step 4

The Head of Procurement will initiate the Procurement Process ensuring that potential suppliers are aware of the employment status should they wish to tender for the opportunity.

Step 5

Following the Procurement Process the successful supplier will be awarded the contract. The contract will include supplementary terms and conditions confirming that the service will be provided within the Off Payroll regulations. The Procurement Team will inform the Clinical Board Director, Clinical Board Director of Operations or Executive

Appendix A

Director of the contract award, including reaffirming the Employment Status of the engagement. Where the engagement is classed as employed for tax purposes and the contractor is being engaged via an Agency, the Procurement Team will advise the Agency of the requirement for tax and National Insurance to be deducted

Step 6

The Clinical Board Director, Clinical Board Director of Operations or Executive Director is required arrange for the completion of the IR35 Off Payroll enrolment form (Appendix 4) at the start of the contract and for the submission of monthly returns (Appendix 5) covering the actual hours worked on a monthly basis along with the relevant invoices

Step 7

Payroll will pay the supplier's invoices on a regular basis ensuring that the correct amount of PAYE tax and national insurance contributions are deducted.

Appendices 1-5 Attached:

Appendix 1 – Off Payroll Working Procurement Process

Appendix 2 – Specification Matrix

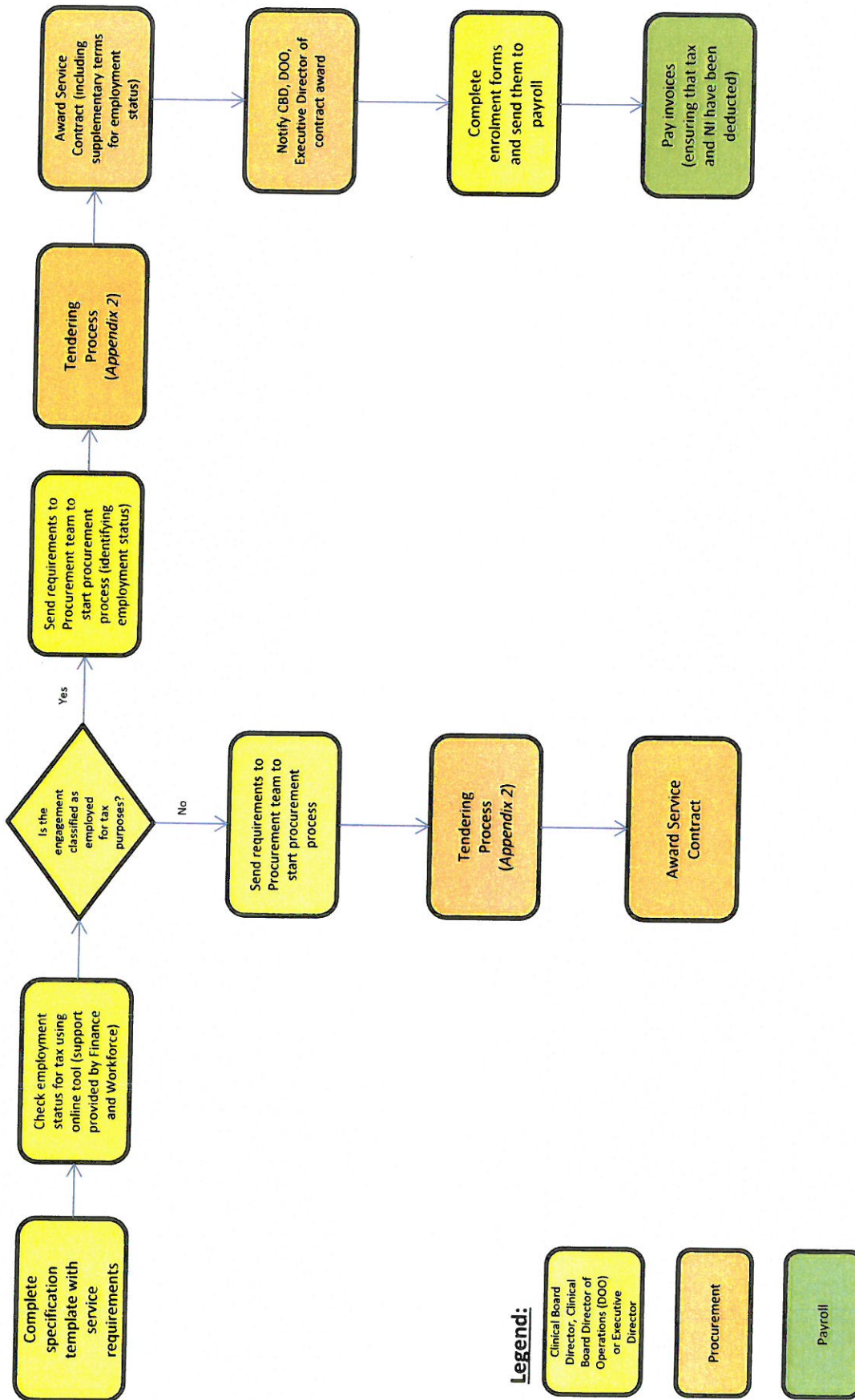
Appendix 3 – Tendering Process

Appendix 4 – Payroll Enrolment Form

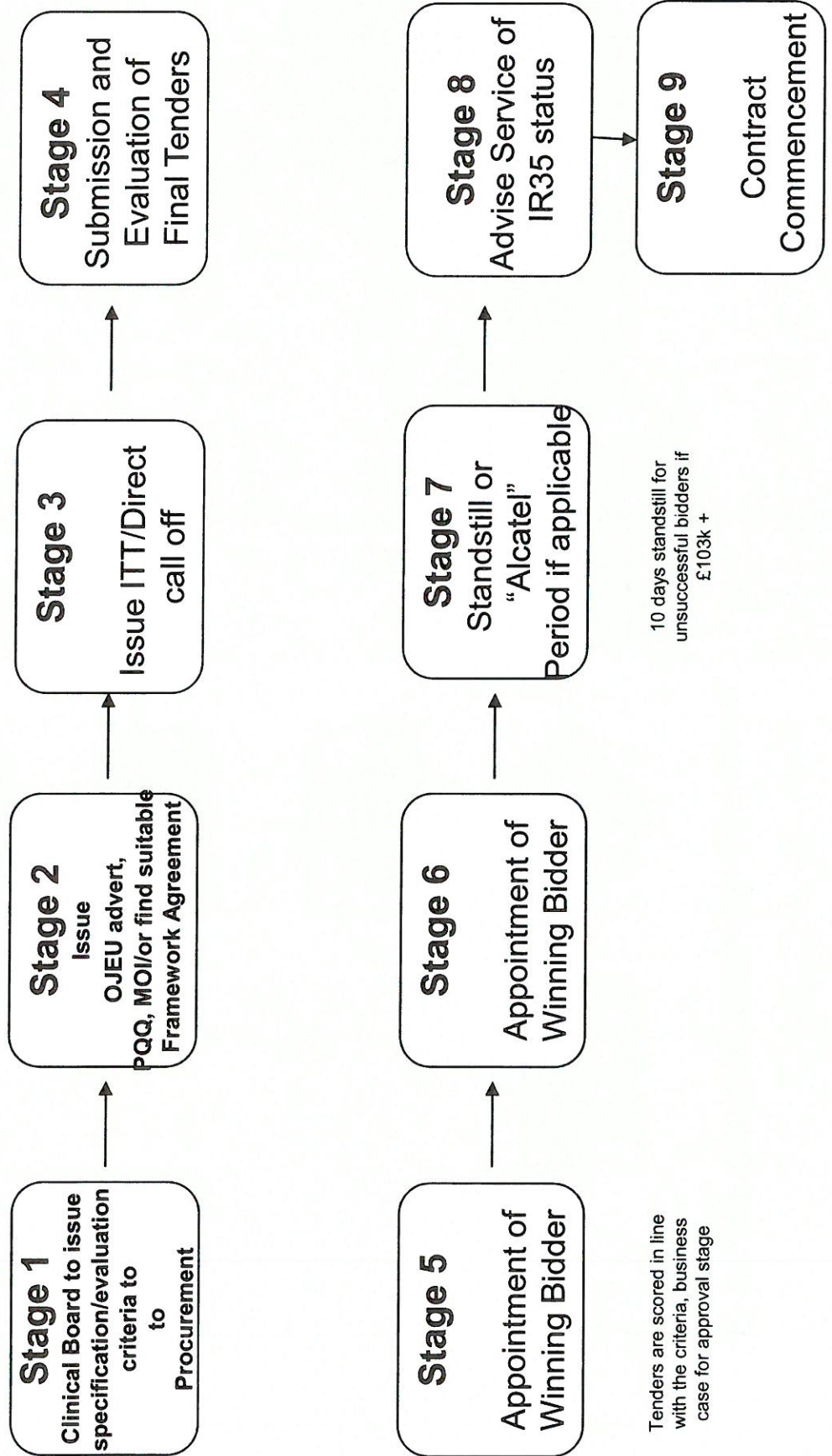
Appendix 5 – Payroll Monthly return

Off-Payroll Working Procurement Process

Appendix 1



Tendering Process



Specification Matrix

Requesting Officer:	
Anticipated Contract Start Date	
Anticipated Contract Finish Date	
Hours:-	
Days:	
Anticipated Value:	
Engagement to be classed as employed for tax purposes	Yes/No
Authorised By:	

Introduction
Cardiff and Vale University Health Board is currently undertaking a review of its clinical offering and looking to embark on a major transformation project to ensure that its services are fit for purpose to deliver its strategic objectives, performance commitments and do so within the financial resources available.
Outputs and Project Deliverables
Any other information

Cardiff & Vale UHB IR35 Off-Payroll Enrolment Form



**GIG
NHS**

Bwrdd Iechyd Prifysgol
Caerdydd a'r Fro
Cardiff and Vale
University Health Board

Section 1		Personal Information	
Title			
Surname			
Forename(s)			
NI Number			
DOB			
Section 2		Address & Contact Information	
Home Address Line 1			
Home Address Line 2			
Home Address Line 3			
Town			
Postcode			
Contact Number			
Email Address			
Section 3		Bank / Building Society Details	
Bank / Building Society Name			
Account Name			
Bank Account Number			
Bank Sort Code			
Building Society Roll Number (if applicable)			
Section 4		HMRC Declaration	
<p>Please read all the following statements carefully and enter 'X' in the one box that applies to you. Please note that you will already have a primary employment with your own company so the services you provide will be treated as a secondary employment. It follows then that declaration C is the option that would normally be used.</p>			
A - This is my first job since last 6 April and I have not been receiving taxable Jobseeker's Allowance or taxable Incapacity Benefit or a state or occupational pension.			
B - This is now my only job, but since last 6 April I have had another job, or have received taxable Jobseeker's Allowance or Incapacity Benefit. I do not receive a state or occupational pension.			
C - I have another job or receive a state or occupational pension.			
Section 5		Employee/Worker Declaration	
Print Name		Signature	
Date			
<p>Once signed, please forward to your Service Requester/Manager for sign off by the Health Board</p>			
Section 6		Health Board Manager Declaration	
DOB Verified (Yes/No)		Signature	
DOB Verification Document			
Print Name			
Date			
<p>Please note: Initially TAX will be deducted at basic rate unless otherwise informed by HMRC</p>			
<p>Payment will be credited to accounts on the Health Board's normal payday, subject to all information being correct</p>			
<p>Please send this form to: NWSSP Payroll Services Or click here to email to Payroll: Floor 4, Companies House Crown Way</p>			

For Payroll Use Only
Authorised by: _____

REQUEST FOR APPROVAL - PROCUREMENT

To: Mr Len Richards, Chief Executive
From: Mrs Claire Salisbury, Head of Procurement

Reference:-

Could you please arrange for the under mentioned Contract Recommendation to be approved on the understanding that it complies with Standing Orders and EC Regulations and the total cost indicated is not exceeded.

Signed _____

Date _____

Print Name _____

- 1 Contract Title
- 2 Contract Period
- 2a Extension Period
- 3 Number of tenders issued/received
- 4 Current Contractor
- 5 Total Value of Current Contract
- 6 Value of Proposed New Contract
- 7 % Increase/Decrease in Contract Value
 - [a] Increase/Decrease
 - [b] Cost Avoidance
- 8 Recommended Contractor[s]
- 9 Budget/Financial Source: [Directorate/Funding]
- 10 The following supporting documentation is attached
 - (a) Procurement Report
 - (b) Reason for Chair's Action (see over)

Additional information can be provided if necessary [EG Adjudication Notes/Summary of tenders etc.]

Reason for Chair's Action	Explanation
<p>11(b) Continued</p> <p>The Chair is asked to take urgent action in respect of contract approval for the following reason(s):</p> <p>(i) Continuity of contract</p> <p>(ii) Frequency of UHB Board meeting</p> <p>(iii) Exigency of service</p> <p>(iv) Extension to current contract</p> <p>(v) Contract Lead Times</p> <p>(vi) Discretionary Capital Programme (previously approved by UHB Board)</p> <p>(vii) Other (to be specified)</p>	

11 Compliance (in respect of Chair's Action)

I confirm I have reviewed the information contained in this request and it accords with the process for approval of such expenditure.

Signed

Dated

Print Name

Board Secretary

APPROVAL

Expenditure £25,000 to £125,000

I approve/recommend the purchase of the above on the understanding that the total cost indicated is not exceeded.

Signed

Dated

Print Name

Finance Director

Expenditure £125,000 to £500,000

I approve/recommend the purchase of the above on the understanding that the total cost indicated is not exceeded.

Signed

Dated

Print Name

Chief Executive

Expenditure above £500k (Board Approval/Chairs Action)

I approve/recommend the purchase of the above on the understanding that the total cost indicated is not exceeded.

Signed

Dated

Print Name

Chair

Complete secondary Form

Contract award approved at LHB Board on Minute No.

Comments:

Cardiff and Vale University Health Board

PROCUREMENT GUIDE FOR STAFF

In conjunction with NHS Wales Shared Services
Partnership Procurement Services



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Appendix I – IR35 Guidance



1. Purpose

This guide sets out NHS Wales Shared Services Partnership (NWSSP) Procurement Services' standards for procurement on behalf of Cardiff and Vale UHB in order to ensure compliance with regulatory and UHB/Trust requirements, whilst allowing the organisation to achieve its objectives and deliver value for money.

This guide is to be read in conjunction with the NWSSP Procurement Policy, UHB's/Trust Standing Orders (SOs), Standing Financial Instructions (SFIs) and Financial Control Procedures (FCPs) (*where appropriate*), which set out the governing principles for public procurement. It is also supported by detailed procedures which have been developed to standardise processes based on best procurement practice, e.g. Scheme of Delegation.

2. Governance

a. Scope and Role of Procurement

This guide applies to all procurement activity undertaken by NWSSP staff on behalf of the UHB/Trust and the term 'Procurement' is to embrace the complete process from sourcing and ordering to taking delivery and payment for all works, goods and services required.

As part of the NHS Wales Shared Services Partnership organisation it is the role of Procurement Services to act as a centre of excellence and expertise for all procurement and supply chain related issues within NHS Wales.

b. Responsibilities

• NWSSP Procurement Services' Staff

All members of staff working in Procurement Services are responsible for ensuring compliance with the Procurement Policy and associated procedures. They will also ensure that they meet any specific requirements as set out in the UHB/Trust SOs, SFIs and FCPs and give due regard to developments in statutory requirements (including European Union Directives), Welsh Government / Central Government policy and Audit Commission Guidelines.

All Procurement Services' staff shall strive to:

- Achieve value for money on behalf of the UHB
- Ensure all suppliers compete on a fair and equal basis
- Ensure compliance and probity
- Ensure that all equipment and consumable products/services purchased are of the appropriate specification for their intended purpose
- Ensure that customers are satisfied with the goods and services provided



- Ensure key processes and procedures are in place to ensure the right quality, price, source, quantity and timing are achieved
- Monitor and manage contract performance to ensure the contract is being delivered as specified

- **UHB Staff**

All NHS staff must adhere to this Procurement Guide and other rules and regulations as set out in the UHB SOs, SFIs, FCPs and Code of Conduct/Standards of Behaviour Framework.

All staff within the UHB/Trust are required to consult with Procurement Services in relation to all procurement issues and particularly on complex and major procurements, including all EU procurement exercises.

It is essential that NHS staff taking part in any procurement exercise carried out on their behalf by Procurement Services fully understand and fulfil their obligations including for example, participation in working/project groups and product evaluations.

c. Enforcement of Procurement Rules

Procurement Services reserves the right to decline to place orders, award contracts and / or pay invoices for any goods or services that have not followed the guidelines stipulated in this Guide, or UHB/Trust SOs, SFIs and FCPs relating to procurement.

d. Legal Framework

Procurement Services must comply with all its legal obligations and operates within a legal framework for public procurement which includes;

- EU and other international obligations as implemented in UK legislation
- Specific domestic legislation eg., on corrupt gifts or unfair contract terms
- Contract and commercial law in general
- UK/Domestic case law

This is achieved by ensuring our Procurement Policy, associated procedures and guidance is consistent with UHB/Trust SOs, SFIs, FCPs and supplementary guidance. These documents set out the duties and responsibilities of UHBs/Trusts and embody the legal and governing principles guiding public procurement which are;

- **Transparency:** public bodies should ensure that there is openness and clarity on procurement processes and how they are implemented
- **Non-discrimination:** public bodies may not discriminate between suppliers or products on grounds of their origin



- Fair treatment: suppliers should be treated fairly and without discrimination, including in particular equality of opportunity and access to information
- Legality: public bodies must conform to European Community and other legal requirements
- Integrity: there should be no corruption or collusion with suppliers or others
- Effectiveness and efficiency: public bodies should meet the commercial, regulatory and socio-economic goals of government in a balanced manner appropriate to the procurement requirement.
- Efficiency: procurement processes should be carried out as cost effectively as possible and secure value for money

E. Governance and Audit

A programme of independent internal and external audits has been established by UHBs/Trusts to ensure effective internal control arrangements are in place. These audits include a review and report on standards of risk management and governance with regard to procurement, including aspects of both compliance and effectiveness of processes. Reports are made available to the appropriate UHB/Trust Board and Senior Management of NWSSP Procurement Services.

3. Procurement Processes

a. Initial considerations when making a purchase

Once you have identified a requirement to purchase, and considered the value of the purchase (in line with the UHBs/Trust SO's/SFIs), you need to consider / confirm:

1. Do I have the funding?
2. Do I have approval?
3. Am I familiar with the Procurement process required? (*If not Procurement will offer advice and assistance*).

If there is NO existing contract(s) or alternative framework agreements you will need to consider undertaking a procurement exercise. Once the decision has been taken to commence the exercise, it is in your best interests to contact Procurement as early as possible, in order that you are advised correctly.

NB: All purchases over £5,000 must have the involvement of a trained Procurement Officer, as listed below, and be authorised as outlined in the Schemes of Delegation

b. Procurement Thresholds

In establishing the appropriate procurement route, minimum thresholds for quotes and competitive tendering set out in the UHB/Trust SO/SFIs will be adhered to. These thresholds reflect EU Directives and UK Regulation requirements, and are summarised in the following table:

Contract Value(ex VAT)	Minimum Competition
------------------------	---------------------



<£5,000	At discretion of appropriate Director
£5,000-£25,000	3 written quotations *
£25,000-OJEU threshold	4 tenders *
Above OJEU threshold (currently £106,047)	5 tenders *
Contracts between £0.500k and £1 million	WG Ministerial Approval For Noting
Contracts above £1 million	WG Ministerial Approval required

*Where it is not practicable to invite minimum competition i.e. finite market /other, this should be documented within both the briefing/planning papers and requests for approval/consent documents.

- Additional details of the thresholds, applying from 1st January 2014 are given below. Thresholds are net of VAT.

Public contracts

The European public contracts directive (2014/24/EU) applies to public authorities including, amongst others, government departments, local authorities and NHS Authorities and Trusts.

Research and development services are exempt, except the Common Procurement Vocabulary (CPV) codes listed in Article 14 of the public contracts directive.

	SUPPLIES	SERVICES	WORKS
Central government authorities, as listed in Schedule 1 of the regulations	£106,047	£106,047	£4,104,394

Utilities contracts

The values indicated are representative of the spend throughout the LIFE of the contract i.e. Total cost, and is applicable for all sources of funding i.e. capital/revenue/funding.

All requests to purchase new/replacement Capital Equipment must be costed by the Procurement team before submitting to the Finance department, in conjunction with approval from both Clinical Engineering/EBME and IM&T departments, *(as appropriate)*

c. Changes to Procurement Contract Regulations 2015



The Public Contracts Regulations (PCR) 2015 enshrine in UK law the EU Procurement Rules for all public sector bodies including NHS Wales. The PCR 2015 includes a number of amendments to the rules and regulations which were effective, in Law, from February 2015. In summary the main changes include:

- Changes to accelerate the advertising and tendering timelines
- Greater flexibility around establishing Innovation Partnerships
- Abolition of Lowest Price only as an award criteria
- Greater emphasis and flexibility on social criteria in procurement awards
- Simplification of the tendering process for SME's including proportionality around turnover required and a self-certification protocol around pre selection
- Poor previous performance can now be taken into consideration when evaluating
- Removal of the distinction and differential treatment of certain services (Part A & B Services).
- Inclusion of a "Lighter Touch" process for a range of health related services

Procurements under the guise of the PCR 2015 are often complex and advice must always be sought from procurement if and when a project is being considered that may fall under this jurisdiction. Procurement Services will have access to a wealth of information and knowledge to ensure a procurement is undertaken in a timely, compliant and efficient manner. The consequences of getting aspects of this wrong could be significant in terms of financial, reputational risk and/or project delay.

EC Procurement Thresholds

4. Contracts & Purchase Orders

All supplies of goods and services will be covered by an appropriate contract, purchase order or agreement. Ordering of goods and services requires compliance by all UHB/Trust staff with the following key system controls, in accordance with the UHB's/Trust 'No Purchase Order/No Pay Policy': (*where operational*)

- Official orders are to be raised via Oracle in respect of all goods and services required by the organisation, except those specifically exempted. Contractors will be notified that they should not accept orders other than in an official form.
- Orders will only be placed in accordance with the appropriate, approved scheme of budgetary delegation.
- UHB/Trust staff must be able to demonstrate that best value for money has been achieved in the procurement of goods and services.
- **UHB/Trust/SSP staff, where applicable, must ensure that all orders are receipted on the Oracle system in a timely manner to ensure that the**



UHB meets its statutory obligation to pay all suppliers promptly in accordance with the requirements of the Public Sector Payments Policy. Failure to acknowledge receipt may result in our account and further deliveries being suspended by the supplier

- Specialist procurement advice should be sought from NWSSP Procurement Services wherever necessary.
- Where contracts have been let on behalf of Trusts/UHBs by NWSSP Procurement Services or other public bodies eg. National Procurement Service for Wales, these contracts must be used, unless an alternative source of supply has been agreed in advance.

a. Evaluation Criteria

The evaluation criteria for a procurement activity shall be agreed jointly between Procurement Services, the evaluation group and/or UHB/Trust representatives. This agreement will be reached prior to the issue of the tender or quotation documentation. Any criteria that is mandatory or has a minimum standard shall be clearly identified.

The process for establishing and agreeing scores and weightings for evaluation criteria is set out in NWSSP procedures, and will be discussed by the Procurement team prior to commencing.

b. Contract Approval

Approval of the contract award decision will be obtained in line with the UHB/Trust Standing Orders and relevant scheme of delegation. The approval process will also take into consideration any further direction or requirements from the Welsh Government, which will include for example consent for contracts over £1 million and monitoring requirements for contracts between £250,000 to £500,000 and £500,000 to £1 million.

c. NHS Terms & Conditions

The NHS Conditions of Contract will form the basis of any contract entered into with suppliers unless otherwise agreed. Copies of current standard terms and conditions are available on the Procurement Services web-site, or directly from your local Procurement team.

d. Single Quotation/Tender(s) Justification – Should this be possible, can it be justified?



Usually NOT, it can be seen as contrary to achieving Value for Money through open and fair competition. Therefore single tender action should normally be avoided. However there may be exceptional cases where single quotation/tendering may be justified, (in line with SO's/SFI's);

Single tender action shall only be permitted when a single firm or contractor or a proprietary item or service of a special character is required and as set out in law. Single tender action shall only be employed following a formal submission and with the express written authority of the Director of Finance having taken into consideration due regard of procurement requirements. (delegations apply)

If you believe that you have justification for inviting one supplier to quote/tender, you should complete a 'Single Justification Form' justifying the decision. The form must be signed by the user responsible for the goods/service, counter signed by the Head of Procurement and passed to the Director of Finance & CEO for approval. This form is allocated a unique number by Procurement and records kept within the Procurement department. Single tender documentation is then issued to the appropriate supplier and reported to the UHB's Audit Committee

e. Extending Contracts – Can I extend?

It is a common misconception that any contract can be extended to finish a job/extend a service that has expired/overrun, or has been deflected by external or unforeseen circumstances. However, a contract can ONLY be legally extended if there is provision to do so, (*Procurement can advise in this area*), if not a new contract will have to be created, in which case a new tender will need to be issued. In all cases of Contract Extensions, approval [in line with SFI's must be provided];

Subject to complying with any legal requirements and agreed contract conditions, a contract may be extended on a single occasion provided the additional cost does not exceed 50% of the original value of the contract to a maximum of £75,000 exclusive of VAT. Such extension must have the express approval of the Chief Executive (or designated officer) in their absence. In addition any contract extension(s) must be checked and validated by the Director of Procurement services prior to submission of the CEO (or designated officer), and subsequently reported to the Audit Committee.

Where a contract was advertised and includes a legal clause providing the option to extend, such approval is not required unless there is a change to any of the current contract terms and conditions including price. Contract extensions will also be referred to the Minister where the extension value warrants ministerial approval values.

f. Use of Framework Agreement



A framework agreement is a type of 'umbrella' agreement negotiated with suppliers by an organisation, on behalf of the public sector. Each framework agreement comes with standard terms and conditions.

Direct Award against a framework agreement

Where there is only one supplier on the agreement, or if there is an option for direct award within the guidance notes for the agreement, you can place an order directly with the supplier. Buying organisations should familiarise themselves with all guidance documents linked to the applicable framework agreement. Consideration will also need to be given to the SO/SFI's at the UHB/Trust around direct award.

'Mini-Competition' against a framework agreement

If there's more than one possible supplier on the framework or direct award is not applicable, a 'mini-competition' should be held to decide who gets the contract.

The buying organisation will need to add their requirements, specifications, assessment criteria and any other documents the supplier needs to complete their bid. Suppliers should be invited to bid through Bravo e Tender Wales ensuring the unique framework number is referenced. The bid documentation, evaluation and award are completed by the buying organisation, as well as the on-going management of the contract

5. CORPORATE Social Responsibility

Procurement Services has an opportunity to make a significant contribution towards the Welsh Government's commitment on sustainable development by including, wherever it is sensible and legitimate to do so, sustainability objectives within the overall assessment of value for money and affordability in its procurement activity.

A Corporate Social Responsibility Policy has been published and endorsed by the NWSSP – Procurement Services Senior Management Team setting out the objectives and plans in relation to sustainability, and a Sustainable Risk Assessment will be undertaken for all contracts over £25,000 taking into account social, economic and environmental issues. The Procurement Policy statement has been developed with due regard to:

- European, national and Welsh Government policy and guidance
- Relevant regulation and legislation
- Examples of best practice



Procurement services will benchmark its performance in sustainable procurement through its use of the Sustainable Procurement Assessment Framework (SPAF).

Welsh Government will provide Community Benefits policy; strengthening support available on the ground and challenging the application

The Welsh public sector will appoint a community benefits champion for their organisation and advise Welsh Government

- apply a Community Benefits approach to all public sector procurements
- apply the Measurement Tool to all such contracts over £1m, as a minimum.
- Provide justification for all contracts valued above £1m where the approach has not been used

6. Dealing with Supplier representatives

NHS Wales Shared Services Procurement Policy puts the relationship between the staff and its current and potential suppliers on a sound and professional footing, and to provide suppliers and their representatives with information on how they are expected to behave and what behaviour they can expect from the UHB, clinical and non-clinical.

Cold Calling is strictly forbidden. [*Please refer to Representative Policy on the Procurement website for further guidance/or available from your local Procurement team*].

7.E-Commerce

Procurement Services supports the Welsh Government Electronic Procurement initiative(s) which aim to enable all public sector organisations in Wales and their suppliers to trade with each other electronically, with the aim of increasing procurement efficiencies and productivity and thereby reducing costs.

We shall work closely with suppliers as our interactions become increasingly electronically driven. We currently employ e-tendering and e-payment tools and this is being extended over time to include the scanning and processing of invoices and development of a central electronic catalogue.

8. General good practice tips

Don'ts

- ❖ **Don't** place an order via telephone. All goods and services must be covered by an official order. Manual invoices (*if not included in exceptions list*) will NOT be paid/will be delayed for payment.
- ❖ **Don't** purchase non-essential items. All goods and services must be justified



- ❖ **Don't** purchase items if there is no budget for those items.
- ❖ **Don't** purchase items where the budget line is already overspent.
- ❖ **Don't** purchase items where costs appear unrealistic.
- ❖ **Don't** source tenders or quotations for any products: specifications and suggested suppliers should be sent to Procurement.
- ❖ **Don't** sign a requisition if it has not been fully completed, otherwise it will be returned.
- ❖ **Don't** proceed with a requisition unless it has been duly authorized by an approved authorized signatory.
- ❖ **Don't** undertake product trials without the prior involvement of the Procurement Department completion of a new/ alternative product form, and a business case being completed.
- ❖ **Don't** extend contracts independently of the Procurement Department.

Do's

- ✓ **Do** ensure purchase orders comply with EC procurement rules and the UHB Standing Orders and Standing Financial Instructions.
- ✓ **Do** fully understand the content of FCP? and have it available for reference
- ✓ **Do** contact and discuss any uncertainties or problems with the Procurement Department.
- ✓ **Do** refer to associated guidance where necessary e.g. Standing Orders, Standing Financial Instructions, Tendering/Quotation procedure etc.
- ✓ **Do** ensure that requisitions are fully completed otherwise they will be returned.
- ✓ **Do** consult with the Procurement Department for estimated costs of items.
- ✓ **Do** follow the procedure in FCP for the receipt of goods and services, regardless of whether the order has been fully or partially delivered and also regardless of any differences in prices charged (price differentials are dealt with by the Finance Department upon receipt of the invoice).
- ✓ **Do** receipt all orders once the goods or services have been delivered.

9. Procurement Contact Details.

All enquiries relating to this guide and any aspect of procurement should be addressed to:

Claire Salisbury
Head of Procurement



Email: claire.Salisbury@wales.nhs.uk	
Telephone: 02920 746310	
<p>Chris Thain Deputy Head of Procurement Email: chris.thain@wales.nhs.uk</p> <p>Telephone: 02920 746310</p>	<p>Rhian Lye Procurement Business Manager Email: rhian.lye@wales.nhs.uk</p> <p>Telephone: 02920 746577</p>
<p>Jane Boulton Business Manager – Projects Email: jan.boulton@wales.nhs.uk</p> <p>Telephone: 02920 741992</p>	<p>Sarah Yellen Business Manager – PCIC& Mental Health Email: sarah.yeeln@wales.nhs.uk</p> <p>Telephone: 02920 746368</p>
<p>Jean Fudge Business Manager – P2P Email: jean.fudge@wales.nhs.uk</p> <p>Telephone: 02920 746277</p>	<p>Emma Keen Business Manager – Estates and Facilities Email: emm.keen@wales.nhs.uk</p> <p>Telephone: 02920 746887</p>
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<p>Nicky Arnold Assistant Business Manager – Projects Email: nicola.arnold@wales.nhs.uk</p> <p>Telephone: 02920 7463987</p>	<p>Emma Lane Assistant Business Manager –Sourcing Email: emma.lane@wales.nhs.uk</p> <p>Telephone: 02920 746363</p>
<p>Lee Jenkins Asst Procurement Business Officer – Surgery Email: lee.jenkins@wales.nhs.uk</p> <p>Telephone: 02920 746216</p>	<p>Gemma Roscrow Asst Procurement Business Officer – Specialist Services Email: gemma.roscrow@wales.nhs.uk</p> <p>Telephone: 02920 743763</p>
<p>Brynmor Jones Asst Procurement Business Officer – CD&T Email: brynmor.jones@wales.nhs.uk</p>	<p>Nia Miles Asst Procurement Business Officer – Sourcing Email: nia.miles@wales.nhs.uk</p>



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<p>Karen French Purchasing Assistant Email: karen.french@wales.nhs.uk</p> <p>Telephone: 02920 746206</p>	<p>Terry Evans Purchasing Assistant Email: terence.evans@wales.nhs.uk</p> <p>Telephone: 02920 746235</p>
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All Wales Sourcing/Contracting

The **Sourcing team** supporting the UHB/Trust is based at NWSSP Procurement Services, **South Wales Region on 4th Floor Companies House**, Crown Way, Cardiff CF14 3UB. / **North Wales Region (St Asaph Office)**- Alder House, Alder Court, St Asaph Business Park, St Asaph LL17 0JL

Further information about ordering and paying for goods and services is available on the Procurement Services webpage.

Sourcing team **contact details** are available from

howis.wales.nhs.uk/sitesplus/888/page/53034

E-Enablement

The E-Enablement Team supporting the UHB/Trust and are based within the NWSSP Procurement services team, 4th Floor Companies House, Crown Way, Cardiff CF14 3UB. The E-Enablement team administer the Oracle procurement systems and their responsibilities include:

- Oracle password resets
- Oracle System Issues



- Oracle setup requests for new user accounts and suppliers
- Oracle training requests (please ensure in the first instance training is requested via [the Service Desk on 02920 903880](mailto:the.Service.Desk.on.02920.903880) or [NWSSP Procurement eEnablement ServiceDesk@wales.nhs.uk](mailto:NWSSP.Procurement.eEnablement.ServiceDesk@wales.nhs.uk)

The e-mail address

[NWSSP Procurement eEnablement ServiceDesk@wales.nhs.uk](mailto:NWSSP.Procurement.eEnablement.ServiceDesk@wales.nhs.uk) should be used to log Procurement and Oracle related calls and will automatically raise a 'call' reference number on Action point.

E-Enablement Team **contact details** are available from:

howis.wales.nhs.uk/sitesplus/888/page/53034#eEnablement

Accounts Payable

The **Accounts Payable team** supporting the UHB/Trust is based at NWSSP Procurement Service, **South Wales Region on 4th Floor Companies House**, Crown Way, Cardiff CF14 3UB. / **North Wales Region (St Asaph Office)**- Alder House, Alder Court, St Asaph Business Park, St Asaph LL17 0JL

Further information about ordering and paying for goods and services is available on the Procurement Services webpage.

Accounts Payable team **contact details** are Tel: 02920 903700

Supply Chain/R&D

The **Supply Chain team** supporting the UHB/Trust is based at NWSSP Procurement Services, Lakeside Stores, University Hospital of Wales, Cardiff, CF14 4XW

Further information about receipt and distribution of goods and services is available on the Procurement Services webpage.

Supply Chain team **contact details** are available from:

Martin Schell – Regional Supply Chain Manager (South East) Tel : 02920 742210

Phil Thomas - Assistant Supply chain Manager Tel: 02920 746364

Debbie Greenstock - Senior Supply Chain Officer Tel: 02920 745328



FFMVA



Appendix I

IR35 Guidance



Procurement Process
IR35.pdf



17 Aug 2017 - Off
Payroll Procurement C

EMMY



Cyfarwyddwr Cyffredinol Iechyd a Gwasanaethau Cymdeithasol/
Prif Weithredwr GIG Cymru
Grŵp Iechyd a Gwasanaethau Cymdeithasol

Director General Health and Social Services/
NHS Wales Chief Executive
Health and Social Services Group



Llywodraeth Cymru
Welsh Government

Nick Ramsay, AM
Chair – Public Accounts Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

Ein Cyf/Our Ref:AG/IO//JM

1 September 2017

Dear Mr Ramsay,

Public Accounts Committee - Audit of Cardiff and Vale University Health Board's Contractual Relationships with RKC Associates Ltd and its Owner

I am writing in response to an email of 20 July asking for my comments on the Wales Audit Office report "Audit of Cardiff and Vale University Health Board's Contractual Relationships with RKC Associates Ltd and its Owner".

As the Cabinet Secretary has made clear, this is a case where standards of good governance have fallen short. In his report, the Auditor General for Wales noted the existence of Standing Orders and Standing Financial Instructions, along with other procedures, which provide the regulatory framework for the conduct of business within Cardiff and Vale University Health Board (paragraph 20). His findings are that the UHB failed to comply with this framework in respect of its contractual relationships with RKC Associates Ltd and its owner.

I am assured that the Chief Executive and Board are treating the report with the seriousness it warrants and are taking the necessary steps to address the issues and enforce compliance with the governance framework. The recent appointment of Len Richards as Chief Executive will further allow the organisation to restate a 'culture of compliance' from Executive Directors and the Board right down through the organisation.

The appearance of the Cardiff and Vale officials before the Committee in September will provide the Committee the opportunity to hear directly from the Health Board on the action plan they have put in place to address the issues raised in the report and rightly respond to these serious concerns.

I wrote to all NHS organisations in Wales on 17 July 2017 in order to draw the WAO report to their attention and required them to urgently review their own governance arrangements for

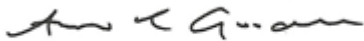


procurement and appointments in the light of the report's findings. I asked Chief Executives to provide me with details of the checks and balances their organisations have in place to ensure good governance on these matters.

I have now received responses from all health boards and trusts to my letter of 17 July and organisations have provided assurance that there are no governance failings similar to those outlined in the WAO report on Cardiff and Vale University Health Board. However, the issues raised within the WAO report has allowed all NHS organisations in Wales to review and where necessary tighten their governance procedures

There are governance procedures on these matters that I would expect all organisation to have in place and have therefore taken the opportunity to set these out again formally to NHS organisations. I wrote again to health boards and trusts on 30 August to outline these expectations.

Yours sincerely



Dr Andrew Goodall

Agenda Item 12

By virtue of paragraph(s) vi of Standing Order 17.42

Document is Restricted