

# Special Measures – Contract and Procurement Review

## Final Internal Audit Report

January 2024

Betsi Cadwaladr University Health Board



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## Contents

Executive Summary.....	3
1. Introduction .....	4
2. Detailed Audit Findings .....	4
Appendix A: Summary of Actions Identified .....	23
Appendix B: List of Officers interviewed .....	26
Appendix C: Acronyms .....	27

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Audit and Assurance Services conform with all Public Sector Internal Audit Standards as validated through the external quality assessment undertaken by the Chartered Institute of Public Finance & Accountancy in April 2023.

### Acknowledgement:

NHS Wales Audit and Assurance Services would like to acknowledge the time and co-operation given by management and staff during the course of this review.

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## Executive Summary

The report finds that there are several areas of concern and non-compliance with the Standing Financial Instructions (SFIs) in relation to contracting and procurement.

The Key findings are:

- There are detailed operating procedures in place within NWSSP Procurement Services that outline the procurement process. However, the Health Board does not have any policy, procedure or guidance for staff on procurement and contract management, and the general finance procedures are out of date and require urgent review.
- Roles and responsibilities between the Health Board and NWSSP are clear, however there is scope to enhance the reporting and escalation process within the Health Board to ensure sufficient assurance is received from NWSSP, and the Health Board has early sight of issues relating to procurement.
- A detailed review of contracts highlighted some non-compliance with Health Board Standing Financial Instructions in relation to appropriate approval and signing of contracts.
- Contract management within the Health Board is inconsistent, with no instruction or guidance provided to staff who are responsible for managing contracts.
- There is no definitive list of contracts across the Health Board, with information received from services incomplete and inconsistent.
- The eWaiver system, which is used to request and approve single tender and quote waivers, does not ensure compliance with the SFIs, as it has no interdependency with the e-Financials system, and does not require the appropriate level of approval for waivers exceeding £25,000. The analysis of the eWaiver data shows that the Health Board is a significant outlier in terms of the number and value of waivers submitted, which raises questions about value for money and market competition.
- There has been no procurement training for Executives and all staff involved in procurement, to ensure full understanding of responsibilities and requirements, despite the previous recommendations from EY and internal audit.
- NWSSP Procurement Services maintain a forward work plan of areas requiring future contracts based on both current contracts in situ and Waive requests to ensure sufficient time is afforded to plan requirements, competition, quotes etc. We found no evidence of a similar practice for the contracts managed directly by Health Board staff and not recorded on the eCM register.

From our analysis of the information made available to us, we have developed twenty-four (24) Actions for consideration by the Health Board, NWSSP Procurement Services and Welsh Government. These are detailed throughout the report and in Appendix A. NWSSP Procurement Services should be actively involved in supporting the Health Board progress the actions assigned to it in this review.

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## 1. Introduction

- 1.1 On 27 February 2023 the Minister for Health and Social Care announced that the Health Board would be escalated into Special Measures, the highest level of intervention in the escalation framework. To deliver the improvement required, the Health Board established a special measures framework underpinned by eight domains for improvement:
- Governance, board effectiveness and audit.
  - Workforce and organisational development.
  - Financial governance and management.
  - Compassionate leadership and culture.
  - Clinical governance, patient experience and safety.
  - Operational delivery.
  - Planning and service transformation.
  - Clinical services.
- 1.2 Within the Financial Governance and Management Domain, a review of contract and procurement management was identified. A Terms of Reference for the review was developed by the Health Board and Welsh Government. NWSSP Audit & Assurance Services were requested to undertake the review in line with the Terms of Reference.
- 1.3 An assurance rating has not been applied to the review, we have made recommendations, where applicable, aimed at improving and/or enhancing expected controls in both procurement and contract management arrangements.

## 2. Detailed Audit Findings

This report is based upon the information provided by officers supporting our review. We have relied solely on the documents, information and explanations provided and, except where otherwise stated, we have not contacted or undertaken work directly to verify the authenticity of the information provided.

### **Objective 1: Overview of current arrangements:**

- **Summarise all areas of contracting and procurement across the Health Board and draw out the areas of focus of this review and be clear on the rationale for areas not focussed on.**
- **Outline the contracting cycle and the current policies, procedures, and processes across the cycle, undertaken by health board operational staff and finance staff, and by the NWSSP local procurement team and NWSSP centrally.**

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### **Contracting and Procurement across the Health Board**

- 2.1 We contacted all corporate functions and clinical divisions and sent twenty email requests and received sixteen replies to the following:
- Details of all active contracts, including start/end dates, value and contract leads/managers.
  - Details of the Standard Operating Procedures concerning procurement and contract arrangements.

No response was received from Integrated Health Community – East; Integrated Health Community West; Office of the Board Secretary; and People & Organisational Development by the timeline set for replies.

Action: Health Board - The Health Board needs to understand why these four services did not respond by the timeline set.

- 2.2 Using the information provided we identified a sample to test which cut across all Health Board areas, bar those who did not respond to our request for information.
- 2.3 We noted at the outset that a small number of areas were able to rapidly provide the required information with the detail required and wish to highlight good practice and opportunity for learning across the Health Board from Pathology, Medical Physics (including Electro Bio-Medical Engineering), Operational Estates, and Healthcare Contracting.
- 2.4 We received varying levels of information with analysis of the information suggesting there is generally poor contract awareness and management arrangements operating across the Health Board. We concluded that the Health Board does not have robust contract information to hand and limited management arrangements to effectively oversee the delivery and value for money of the services procured.
- 2.5 We also sought contract details from NWSSP Procurement Services which they have actioned on behalf of the Health Board. We were provided with a copy of their 'eCM' spreadsheet which identified three hundred and eighteen (318) contracts they are actively involved with.
- 2.6 We sought to data match both sets of data with Accounts Payable data but due to inconsistencies in the naming of supplier details we were unable to compile a definitive list. We found instances where the 'eCM' data had three different ways of recording the supplier e.g. 'plc'; 'and'; '&'; for one supplier.

Action: NWSSP Procurement Services - The Supplier Header in 'eCM' data is consistent as set-up in Oracle e-Financial.

### **Policies and Procedures**

- 2.7 The NHS Wales Model Standing Financial Instructions (SFIs), as adopted by the

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Health Board are explicit in the roles and responsibilities concerning procurement and contract management and read in conjunction with Health Board Standing Orders (SOs) are the key governing documents that must be complied with.

- 2.8 Underpinning the SFIs and SOs, the first line of assurance/defence consists of all operational functions that own and manage the services and their associated risks. These are officers who are directly involved in delivering the organisation's objectives and ensuring compliance with policies and procedures.
- 2.9 We reviewed the Health Board's own procedures focusing on procurement and found no specific procedure to ensure officers comply with the requirements of the SFIs. Our review of the Finance Directorate procedures found that twenty-one were listed with all except four out of date and requiring review with some review dates noted as 2019.
- 2.10 As part of our review, we located a predecessor NHS Wales Trust organisation's SOs and SFIs to identify how they ensured the requirements of the SFIs were translated into operational procedures/guidance. We found that the former North West Wales NHS Trust SFIs recorded Policy/Procedure references against SFI headings e.g. Procurement, thus ensuring the SFIs were integrated into operational procedures.

Action: Health Board – The Executive Director of Finance ensures the current finance procedures are reviewed with urgency and a full review of the SFIs is undertaken to identify gaps in published procedures to guide/instruct the Health Board in complying with the SFIs.
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- 2.11 NWSSP Procurement Services (NWSSPPS) have a defined role within the SFIs to maintain policies and procedures on behalf of the Health Board, detailed as follows:
- 11.2.1 NWSSP Procurement Services shall, on behalf of the LHB, maintain detailed policies and procedures for all aspects of procurement including tendering and contracting processes. The policies and procedures shall comply with these SFIs, Procurement Manual, and the Revised General Consent to enter Individual Contracts. included as **Schedule 1** of these SFIs.*
- 11.2.3 NWSSP Director of Procurement Services is responsible for ensuring that procurement, tendering and contracting policies and procedures.*
- *Are kept up to date;*
  - *Conform to statutory requirements and regulations;*
  - *Adhere to guidance issued by the Welsh Ministers;*
  - *Are consistent with the principles of sustainable development.*
- 2.12 The Document Management System (DMS) intranet site maintained by NWSSP provides details of current policies, procedures and documents and is comprehensive and appears to comply with the requirements of SFI 11.2.1. We are unable to confirm that all aspects of the SFIs are captured or where assurance

from NWSSPPS is formally reported to the Health Board.

- 2.13 Part of this review considered Health Board compliance with quotations; Procedure PS-QUO-01 – Quotations provides detailed guidance for NWSSPPS and signposts to the *'All Wales SQA/STA Request form'* which we reviewed. The review identified that the current form and process does not comply with the requirement of SFI 11.13.2 in relation to *"The Director of Finance must approve such applications up to £25,000, the Chief Executive or designated deputy, and Director of Finance, are required to approve applications exceeding £25,000."*

Action: NWSSP Procurement Services – The Director of Procurement Services:

- Ensures all policies, procedures and guidance documents are up to date in line with the Standing Financial Instructions.
- Provides an annual assurance report to the Chief Executive, who is ultimately responsible for procurement in the Health Board, of compliance with the Standing Financial Instructions, including a summary of any breaches with expected procurement controls.

- 2.14 NWSSPPS developed a *'All Wales Procure to Pay e-Manual for use by Health Organisation'* and this is very detailed and easy to follow and we recognise as good practice. We were advised the e-manual was circulated by the Finance Academy to all NHS Wales organisations. We were not aware of the manual and were also not signposted to it by anyone contacted through this review, suggesting the circulation was limited and not distributed widely in the Health Board.

Action: NWSSP Procurement Services and Health Board – The *'All Wales Procure to Pay e-Manual for use by Health Organisation'* content is reviewed and updated where necessary and NWSSPPS works with the Health Board to actively publicise it.

- 2.15 Through our review, we noted that predecessor NHS Wales Trust organisations' Model Standing Orders, issued by Welsh Government, recorded a competitive tender limit of £50,000 with quotations required over £5,000. The current Model Standing Financial Instructions has a tender limit of £25,000. We also noted that the Standing Orders excluded the ability for an organisation to support a Single Tender/Quote Waiver where *"...Failure to plan the work properly is not a justification for a single tender;"*

Action: Welsh Government –

- Review of the current tender limit is considered, whilst recognising the financial pressures facing NHS Wales.
- Consider enhancing the Standing Financial Instructions to exclude NHS Wales organisations from completing and approving Waivers based on timescales.

- 2.16 Whilst outside the scope of our review, we recognise the UK Government

introduced the Procurement Bill to the House of Commons in January 2023 with an expected 'go live' date of October 2024 noted. Whilst the review has focused on compliance with current process, we are not sighted on the arrangements in place to ensure NHS Wales is ready for any changes, should the Bill receive Royal Assent.

Action: NWSSP Procurement Services – The Director of Procurement Services ensures NHS Wales is ready for any changes in the Procurement Bill to current process and provides updates to all NHS Wales Boards on any impacts of change – This is timebound.

**Objective 2: In the context of the overview, identification of potential areas of concern in conjunction with:**

- **Review of the Ernst & Young (EY) report findings and recommendations.**
- **Review of recent internal audit reports and any other relevant reviews.**
- **Review of single tender waiver process, including review of numbers and specific instances of STW's reported over the last 12 months.**

**EY report action plan**

- 2.17 The *Forensic report of account issues*, sent by Ernst & Young (EY) in January 2023, identified a range of issues for the Health Board to address relating to governance, communication and training, and contract management. We have considered the actions relating to procurement and contracting, and actions taken by the Health Board to address these. This has involved a review of the Financial Control Environment Action Plan, which was developed by the Health Board's Finance team to address issues raised. We are advised that it incorporates findings from Audit Wales, EY and Internal Audit reviews, however a review of the plan highlights that there are no specific actions relating to a number of the EY recommendations, including a review of contract management procedures, contract extensions, managing contract costs and a review of key contracts.
- 2.18 We reviewed the action plan dated September 2023, noting that going forward actions will be incorporated in the Finance Special Measures Action Plan, as part of special measures work.
- 2.19 Whilst the Health Board is progressing actions, there remains further action in the following areas:
- Contract management – review of procedures, ensuring contracts are approved in line with policies and procedures, provide guidance on extension of contracts, controls relating to monitoring the limits of contracts, review of all key contracts to evidence compliance with requirements, and a formalised contract management system. We recognise that the Health Board is awaiting the



findings of this review to ensure focused action is taken to address this area of risk.

- Scheme of Reservation and Delegation (SoRD) – we recognise this has been reviewed and revised by Finance, with work ongoing to review delegated limits within operational areas, to ensure consistent practice across the Health Board.
- Review Audit Committee terms of reference and involvement in risk management, accounts processes and sign off of single tender waivers.
- Regular reviews of key policies and procedures – we are advised it is planned to review all Finance procedures.

We recognise that the Health Board is awaiting the outcome of this review, however the Health Board should confirm the actions it has taken / will be taking to address the recommendations raised.

Action: Health Board – To detail the actions taken / planned actions to address the specific recommendations detailed in the Ernst & Young report.

**Internal Audit and other relevant reviews**

2.20 An Internal audit review *Procurement: Contract Management and Single Tender Waivers* was undertaken in 2021. The key matters arising from this review were:

- Whilst there were monitoring and oversight of contracts, the formality of these arrangements varied across the Health Board.
- Whilst the eWaiver system had simplified the process for submission and approval of single tender waivers, it was not clear whether the conditions for approval are followed up (i.e. if all information relating to the request, such as previous STWs, was disclosed in the request).
- The NWSSP Contract database did not have up to date information for two contracts reviewed.

Actions agreed by the Health Board, and the latest status provided to us is detailed in the following table:

Agreed action	Update
Produce a guide to service managers outlining key principles, minimum requirements for both contract specification and ongoing monitoring	Action closed. There is no narrative relating to this action, or evidence of action taken attached.
Review all relevant contracts to identify the level of risk of each contract with a view to reviewing, with procurement	Action closed. Progress update states: <i>Contract file attached and seperated into sections</i>

<p>colleagues, that appropriate arrangements are in place.</p>	<p><i>and risk assessed.(sic)</i> A list of risk assessed contracts provided, however it is not clear what further action has been undertaken following the initial assessment to confirm appropriate contract management arrangements are in place.</p>
<p>The Health Board will request a quarterly contract report from the NWSSP Procurement Services and review the detail at the relevant P2P meeting for accuracy. All inaccuracies will be flagged for update.</p>	<p>Action closed. Progress update states: <i>Quarterly review of the database will form part of the agenda and a formal review be undertaken at the finance P2P meeting.</i></p>
<p>To investigate the possibility of updating the eWaiver system to include a follow up flag that we ensure caveats are noted and followed up if or when a waiver is renewed or extended.</p>	<p>Action open: Progress update states: <i>Following a period of user testing the new system is now expected to go live at the end of August 2023. A communication plan for the launch is currently being developed to discourage use of STWs whilst promoting appropriate use of the new system. This is also subject to review fortnightly by WG as part of the Financial Control Environment Action Plan. Post implementation an assessment of impact will be conducted in September (revised date extended from March 2022 to end of September 2023)</i></p>

2.21 We also reviewed audit actions directly relating to procurement and contract management (internal and external) – a total of 9 actions (including those detailed above).

- One remains open, as detailed in the table above.
- Five have been implemented – final client approved (Executive Director approved but not been followed up by audit).
- Two have been implemented – audit approved.
- One has been closed (not verified by audit based on the priority assigned to the recommendation).

**Single Tender Waiver (STW)/Single Quote Waiver (SQW) process**

2.22 NWSSPPS use the ‘All Wales SQA/STA Request form’ to govern and control all STW/SQW requests across NHS Wales bar the Health Board. The Health Board has since April 2019 used an in-house developed ‘eWaiver’ system.

2.23 The eWaiver system “...has been designed to streamline the process for completing a request to waive SFI’s...” and whilst we recognise the driver for doing so, we have found that the system does not interact with the e-Financials Purchase Order system.

It appears to be an electronic administrative system only which does not contribute to the expected controls underpinning the requisition/purchase order element of e-Financials and deliver on the requirement set out by the SFIs.

2.24 We are aware that the eWaiver system is subject to an update and requested details of the changes being applied on the 10 October 2023 but at the time of preparing this report we have not yet received a reply.

2.25 We obtained data for 2022/23 and 2023/24 from the Business Systems Team and identified the following high-level findings:

Table 1 – Waivers submitted by Year (includes all approved/rejected/awaiting action)

Year	Count
2019/20	30
2020/21	184
2021/22	338
2022/23	307
2023/24 (to September 2023)	115

Source – Data extract provided by Business Systems 12 September 2023

Table 2 – Summary of the top fifteen waivers by count, submitted by Division (includes all approved/rejected/awaiting action)

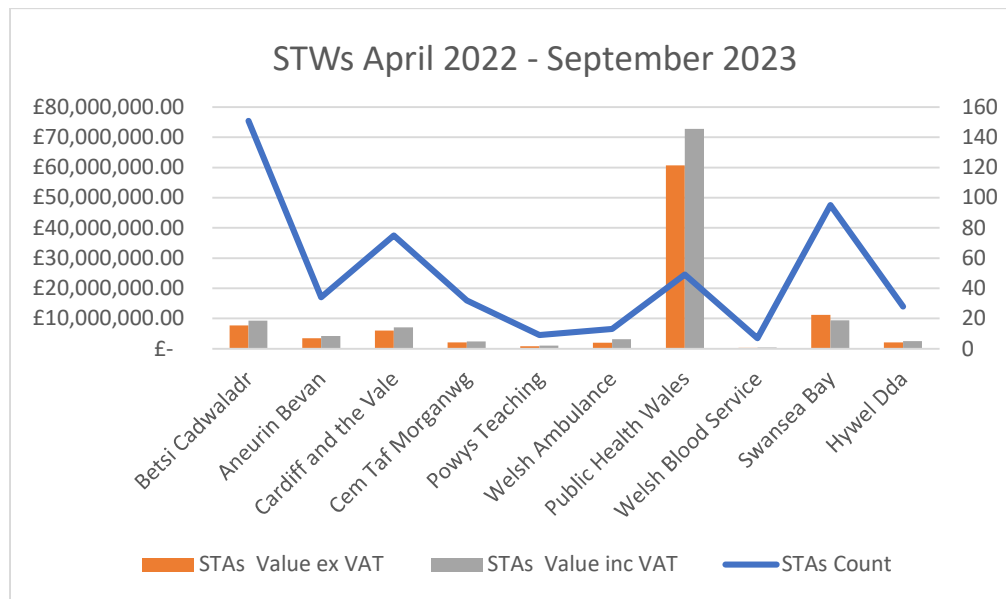
Division	Type of Waiver	Count
Corporate	Tender	117
Mental Health & LD	Quote	110
Estates and Facilities	Quote	83

Division	Type of Waiver	Count
Secondary Care - Managed Clinical Support	Quote	78
IHC Centre (Area Team - Central)	Tender	63
Corporate	Quote	60
Estates and Facilities	Tender	50
IHC Centre (Area Team - Central)	Quote	44
Mental Health & LD	Tender	43
Secondary Care - Managed Clinical Support	Tender	39
IHC East (Area Team - East)	Tender	37
IHC West (Area Team - West)	Tender	37
Capital	Quote	29
IHC West (Secondary Care - YG)	Quote	29
IHC Centre (Secondary Care - YGC)	Tender	19

Source – Data extract provided by Business Systems 12 September 2023

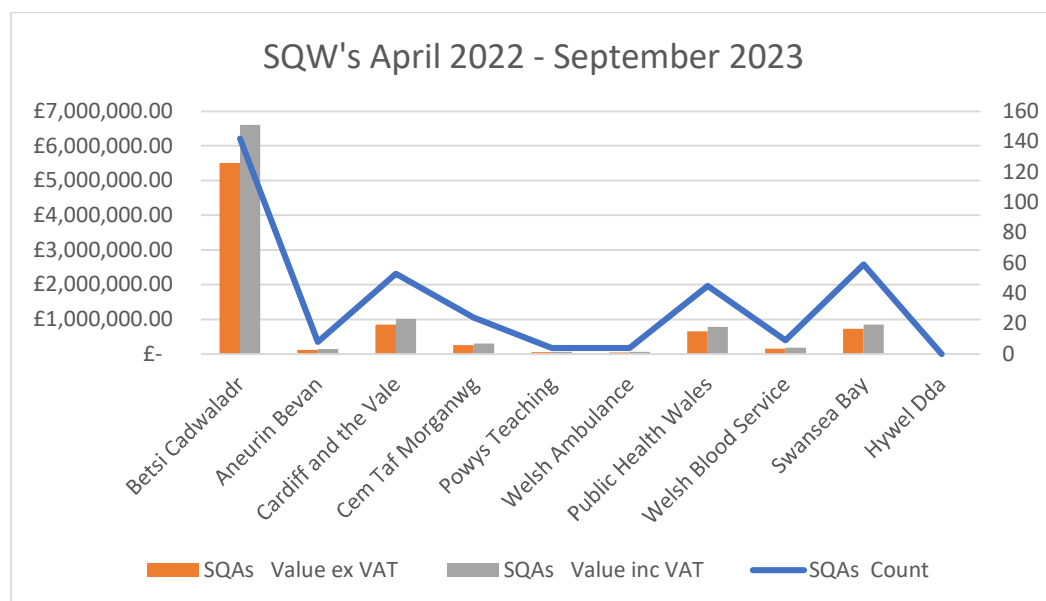
2.26 To ascertain how the Health Board compared with its peers in NHS Wales, we asked NWSSPPS to provide us with a summary of STW/SQW use in NHS Wales, with the following information received.

Graph 1 – NHS Wales summary of single tender waivers/actions (April 2022 to September 2023)



Source data provided by NWSSPPS 28 September 2023

Graph 2 - NHS Wales summary of single quote waivers/actions (April 2022 to September 2023)



Source data provided by NWSSPPS 28 September 2023

- 2.27 The review of data has identified that the Health Board is a significant outlier in the number of both tender and quote waivers submitted.
- 2.28 Consequently, through both volume and value, it is difficult for the Health Board to justify and evidence they have secured value for money in all cases, noting there will be exceptions where they have to go to one supplier for warranty/maintenance.
- 2.29 To complete the review of STW/SQW submitted through the eWaiver system, we reviewed the data and have identified the following high-level findings:

- Mandatory information required in the '*All Wales SQA/STA Request form*' is not evident in the system e.g. Whole life costs, Declaration of Interest does not require the eight statements to be answered, merely signposts to an online declaration form which we are unclear is verified as being completed.
- There is incomplete data in the recording of approval within the *Organisational Approval section - Finance Director Approval Decision*, where we found several noted as 'Accept' by the Finance Director to progress the waiver but no details of who the officer was, and date of approval both blank.
- The value of the figure recorded can be a mix of numeric and text which results in the actual value of waiver being unclear.
- Lead Executive Director approval of the service is not required in advance of the request being submitted to Procurement for consideration.
- The system is not complying with SFI 11.13.2 regarding "*The Director of Finance must approve such applications up to £25,000, the Chief Executive or designated deputy, and Director of Finance, are required to approve applications exceeding £25,000.*".
- Reasons for the waive requests are scant in some cases.
- We noted requests for Local Authorities and Third Sector and are unclear why other avenues are not being considered instead of STW/SQW.
- There is no control over who can submit a waiver, with access readily available. Previously NWSSPPS issued a checklist for requestors to complete which clarified whether a waiver could be submitted, this has subsequently been suspended but are unclear at whose request.
- We found evidence where NWSSPPS had rejected waivers but they had subsequently been accepted by the Finance Director. However, details of the officer and date were not recorded.
- We reviewed a sample of four waivers that had been submitted and were noted as "Waiver request - with Budget Holder" and followed them through the procurement process to see if they had been progressed. All except one had been progressed via a framework with one non-compliant and retrospective purchase orders raised to make payment and no tender/framework in place – value is £83,173.04 for professional services.

As these requests were 'sitting' in the eWaiver system and had not been approved, we reviewed whether purchase orders had been raised. All of these requests had purchase orders raised despite not being approved in the eWaiver system. All except one had been approved by officers with no documented delegated authority per the Health Board Scheme of Reservation and Delegation.

- The review of supporting narrative provided by NWSSPPS sometimes lacked the rigour to demonstrate scrutiny of the application in line with SFI 11.13.3 to include:

- *Robust justification is provided;*
- *A value for money test has been undertaken;*
- *No bias towards a particular supplier;*
- *Future competitive processes are not adversely affected;*
- *No distortion of the market is intended;*
- *An acceptable level of assurance is available before presentation for approval in line with the Health Board Scheme of Delegation; and*
- *An "or equivalent" test has been considered proving the request is justified.*

Action: Health Board – An urgent review of the eWaiver system is completed to ensure:

- It delivers the full requirements of the Standing Financial Instructions.
- It Interacts with the e-Financials System and is a key control to corroborate approval/rejection of waivers prior to any requisition and purchase order being approved and actioned.

Action: NWSSP Procurement Services – Ensure all STW/SQW applications are scrutinised to ensure compliance with Standing Financial Instruction 11.13.3 and reject where the criteria has not been met.

2.30 In line with SFI 11.13.5 *"As SQA or STA are only used in exceptional circumstances the Health Board, through the Chief Executive, must report each, including the specifics of the exceptional circumstances and the total financial commitment, in sufficient detail to its Audit Committee."*

2.31 We reviewed the Financial Conformance reports prepared by Finance Directorate to the Audit Committee for 2022/2023 and 2023/2024 to the list of approved/rejected requests maintained in the eWaiver system and identified that all could be verified from the conformance report to the register.

However, it should be noted that there has been no finance conformance report for quarter 4 2022/23 at the time of this report.

Action: Health Board – The Chief Executive ensures the requirements of SFI 11.13.5 is complied with and the Audit Committee receive timely reports on waivers.

**Objective 3: In Assessment - To assess the adequacy of both the design and compliance/implementation of controls across the contracting cycle, including in respect of the following aspects in particular:**

- **Contract approval process controls, including WG approval where required, and compliance with those controls.**

- **Existence, and usage of contract registers as the basis for effective contract management and procurement planning.**
- **The application of the Scheme of Reservation and Delegation (SORD), including compliance with the requirement to procure expenditure and the appropriateness of use of the STW process, and compliance with the requirements of letting and approval of contracts.**
- **Whether the respective roles and responsibilities of NWSSP and Health Board staff are sufficiently clear, and whether there is adequate segregation of duties.**
- **Whether there are existing purchase orders with internal email or postal addresses, that would enable POs to be used internally only rather than externally where they are subject to third party aspects of control.**
- **Identifying any variation in practice and compliance levels across the Health Board and its various areas and divisions.**
- **Comparison with practice in other Health Boards.**
- **The adequacy of staff training, particularly staff outside finance and procurement functions.**

### **Contract approval process**

2.32 NWSSP Procurement Services have a suite of procedures that are applied across NHS Wales to ensure all NHS Wales organisations comply with the mandatory approval process.

2.33 We reviewed a sample of contracts:

- Twelve (12) from the list of contracts provided by NWSSP Procurement Services.
- Forty-nine (49) from the information provided by Health Board staff / services.

2.34 Welsh Government and obtaining Welsh Government approval:

NWSSP Procurement sample: all that required Welsh Government approval/notifications (six) had the required returns and evidenced receipt of response. For one we noted the contract had been signed by the Health Board after the recorded start date.

Health Board sample: We identified eighteen that met the financial value criteria requiring Welsh Government approval/notifications of report and identified that:

- Seven had complied with Welsh Government reporting requirements.
- Ten were not applicable as they were either healthcare contracts or on a framework.
- One could not be corroborated as no document was provided.

2.35 Contract signed by a Health Board Executive (per standing orders)



Of the eight contracts provided by NWSSP Procurement Services (four of the twelve did not require a contract):

- Two were signed by an Executive Director (per SORD).
- Six had been signed by officers without delegated approval to sign contracts.
- We were unable to confirm that the contracts considered by the Board for approval had been Signed under Seal in accordance with SO 9.0.1.

Of the forty contracts provided by the Health Board (nine were not applicable due to national contract / contract let by Welsh Government etc.):

- Fifteen (37%) were signed by an Executive Director (per SORD).
- Five (13%) were not signed by an Executive of the Health Board.
- Nine (23%) Contracts were not provided.
- Four (10%) had no signature.
- Six (15%) where we were unable to verify (framework / WHSSC).
- One (2%) was awaiting signing.

Action: Health Board:

- The Board Secretary ensures Standing Order 9 – Signing and Sealing Documents is always complied with, in particular SO 9.0.1 where the Board has considered "*...a transaction to which the document relates has been approved by the Board.*"
- The Chief Executive ensures contracts are signed in accordance with Standing Order 9.2.2 either by the Chief Executive or nominated officers delegated by the Board.
- The Scheme of Reservation and Delegation (SORD) is reviewed to ensure it complies with the requirements of Standing Order 9 as we noted the SORD delegates contract approval with limits to Executive Directors.

### **Contract registers**

2.36 NWSSPPS maintain a list of contracts on their eCM register which records all contracts they are involved in. We contacted twenty corporate/operational functions in the Health Board to obtain details of the contracts they have in place. We did not receive a reply from four: People & OD, Office of the Board Secretary, IHC East and West (West sent their reply 2 October 2023, with the required reply of 13 September 2023).

2.37 We noted in responses that with the exception of Pathology, Operational Estates Services and EBME who were able to reply almost immediately, the remainder of the Health Board were reliant on other departments to provide the information. The Healthcare Contracts team maintain a register of healthcare contracts and

were a source of information to other functions.

2.38 There is no definitive list of contracts in place across the Health Board.

2.39 In terms of procurement planning, NWSSPPS hold a future work plan that incorporates all contracts they are involved in, with contracts flagged a period of time (i.e. 12 months) prior to the end date, to ensure sufficient time is allowed to review requirements and procure an appropriate supplier.

2.40 We are unable to confirm the forward planning in place for those contracts managed by the Health Board.

Action: Health Board -

- The Executive Director of Finance ensures Finance Policies/Procedures are developed that provide all Health Board staff responsible for procurement detailed guidance and expectations to ensure compliance with Standing Financial Instructions and expected control in contract management.
- Working with NWSSPPS, develops a composite contract register for the Health Board to ensure the risk of independent contract development is minimised and the Health Board maximises value for money where several contracts with a single supplier can be amalgamated.

### **Application of Scheme of Reservation and Delegation**

2.41 The Health Board has a Scheme of Reservation and Delegation in place. The current approved version (August 2022) outlines delegated limits and is also clear on the requirements for signing contracts.

2.42 We reviewed the sample of contracts to determine if they were approved in line with the SoRD.

Of the twelve contracts provided by NWSSP Procurement Services:

- four were approved in accordance with the SoRD.
- three were not approved in accordance with the SoRD.
- five were unable to be verified.

Of the forty-nine contracts provided by the Health Board:

- thirty-one (63%) were approved in accordance with the SoRD.
- five (10%) were not approved in accordance with the SoRD.
- eleven (23%) were unable to be verified.
- two (4%) were national contracts.

2.43 The STW/SQW process is covered in objective 2 above.

Action: Health Board – To ensure the Scheme of Delegation is applied

appropriately in e-Financials, and is updated to ensure all of the organisation's structure is captured.

### **Roles and responsibilities**

2.44 The Service Level Agreement (SLA) in place between NWSSP and NHS Wales is very high level, with the following identified as a link to delivery of procurement:

- NWSSP Role: Developing and delivering an agreed national and local savings and reporting strategy with on-going delivery. Including financial and non-financial social, economic and environmental sustainability benefits.
- Health Board Role: Providing requests for procurement that have been approved in line with relevant SFI and governance arrangements.

We can find no specific Key Performance Indicator (KPI) in place to report on matters of non-compliance with this measure.

2.45 Health Board Standing Financial Instructions (section 11 *Procurement and contracting for goods and services*) clearly outlines the roles and responsibilities of NWSSP Procurement Services and its responsibility in relation to policies and procedures. It also confirms the Chief Executive "...is ultimately responsible for ensuring that the LHB's Executive Directors, Independent Members and officers within the organisation strictly follow procurement, tendering and contracting procedures."

2.46 We reviewed key job descriptions within the Finance, including the Integrated Health Community Chief Finance Officer, Chief Finance Officer for North Wales Services, Associate Director of Healthcare Contracts, Finance Director (operational).

2.47 All roles were clear in relation to procurement. The Finance Director Operational role includes "...to Act as the Health Board's strategic advisor on all Procurement matters ensuring compliance and the development of best practice with the Health Board Standing Financial Instructions; Procurement Law and other Guidance."

2.48 Whilst the NWSSP Head of Procurement reports to the Executive Director of Finance via the Finance Director (Operational), an alternative route of escalation, in the event of a conflict, should be in place via the Board Secretary.

2.49 In accordance with the Standing Financial Instructions and NWSSP Procurement procedures there is clear segregation of duties.

Action: Health Board and NWSSP Procurement Services – Review escalation routes within the Health Board for the Head of Procurement.

### **Purchase Orders**

2.50 We reviewed all existing purchase orders to determine whether there were any internal email or postal addresses and noted the following:

- One hundred and sixty-five (165) suppliers where there were purchase orders with no fax or email recorded. We have not reviewed the reasons for this.
- The Health Board paid itself through Accounts Payable instead of journalling the expenditure: BCUHB Print Hub (email address of hotel facilities manager) £1,005.37.
- One supplier was set-up with a generic NWSSP Procurement email address - Halsall Crabtree Surgical Instrument Engineers - £2,520. We questioned this with the NWSSP Supplier Maintenance Team and were advised the supplier was set-up prior to the establishment of the Supplier Maintenance Team and therefore no records exist to corroborate why.

2.51 Whilst we were able to request and obtain these reports, they do not form part of the internal control process within the Health Board.

Action: Health Board and NWSSP Procurement Services – As part of the monthly meetings between both Finance & NWSSPPS, ensure reports pertaining to blank email/fax details in purchase orders are reviewed and corrective action taken to address irregularities.

### **Variation in practice and compliance levels**

2.52 As noted in 2.37 above, the level of detail provided by services varied. We reviewed a sample of Health Board contracts and requested details on the contract management arrangements in place.

Of the twelve contracts provided by NWSSP Procurement Services:

- five had evidence of formal contract management arrangements, four of these include where NWSSP Procurement Services are involved in the contract.
- for the remaining seven we have not received evidence of contract management.

Of the forty-four contracts provided by the Health Board (five were not applicable / maintenance contracts):

- twenty five (57%) had evidence of formal contract management arrangements (i.e. meetings with suppliers, SLAs, KPIs).
- seventeen (39%) did not have evidence of contract management.
- two (4%) advised issues were raised as they arise (informal arrangements).

2.53 Whilst the majority of those reviewed had formal contract arrangements in place, there is no guidance provided or available to Health Board staff who are managing contracts.

2.54 From the information received, the following areas were able to provide us with the required contract information promptly, indicating they have a grasp on the contracts they are responsible for:

- Pathology
- Medical Physics (including Electro Bio-Medical Engineering)
- Operational Estates
- Healthcare Contracting

Action: See actions at paragraphs 2.14 and 2.40 in relation to contract management.

### **Comparison with other Health Boards**

2.55 We met with the Director of Procurement Services, Deputy Director of Procurement Services and all Heads of Procurement to ascertain whether there were any differences in how Heads of Procurement manage relationships with their respective Health Boards.

All teams within NWSSP Procurement Services follow standard procedures for the procurement of goods and services. A quarterly performance report, which includes performance against KPIs is provided to the Health Board and presented by the Executive Director of Finance to the Performance, Finance and Information Governance Committee. Further assurance and reporting is determined by the requirements of each Health Board.

2.56 Within the Health Board, Finance provide procurement information and present this as part of the Financial Conformance report at Audit Committee. In some other Health Boards, NWSSP Procurement Services prepare the reports to Audit Committee on all elements concerning procurement and also attend to present the report – this is independent of Finance.

An example is Aneurin Bevan UHB Audit Committee papers for September 2023 that include a report on compliance, developed by Procurement Services and presented to the Committee. These papers are also in the public domain, whereas BCUHB publish their conformance report to the private meeting.

2.57 Through our meetings with NWSSP Heads of Procurement we were advised that services provided differ across organisations. We requested details of the services provided to each Health Board/Trust; at the time of writing this report we are still awaiting the information.

Action:

- Health Board – To review reporting arrangements with the local procurement team to determine requirements going forward, including Audit Committee reporting and attendance.

- NWSSP Procurement Services – To provide information to the Health Board on services provided to other Health Boards / Trusts.

### **Staff training**

- 2.58 Internal Audit has previously identified the Health Board has not complied with the requirements stipulated by the Chief Executive of NHS Wales requiring that all Executive Directors and all officers involved in procurement must receive mandatory procurement training.
- 2.59 All new employees who require access to e-Financials procurement are required to complete on-line training before receiving a username. This went live in August 2023. We are not able to view the actual training, however a user guide was shared with us which indicates the type of training provided.
- 2.60 There is a training requirement plan in place that outlines Health Board Finance and Procurement training with key elements starting October 2023, but at the time of preparing this report we have not received any updated timelines.
- 2.61 In September 2023, the Interim Chief Executive confirmed to the Chief Executive of NHS Wales that they *"...expect the majority of colleagues to have received the SOs, SFIs and training/briefing within the next 3 months, and will individual follow-up for those who have not yet met the essential requirements."*

Whilst noting the ambition, we have not seen any timetable when and how the training is being delivered.

Action: Health Board – The Chief Executive receives an update from Officers responsible for facilitating and delivering procurement training which includes the timetable for delivery capturing all current posts, how new appointees will receive their training and what refresher training will be provided and how e.g. on-line training presentation.

## Appendix A: Summary of Actions Identified

### **Health Board**

1. Health Board - The Health Board needs to understand why these four services did not respond by the timeline set.
2. Health Board: The Executive Director of Finance ensures the current finance procedures are reviewed with urgency and a full review of the SFIs is undertaken to identify gaps in published procedures to guide/instruct the Health Board in complying with the SFIs.
3. NWSSP Procurement Services and Health Board: The 'All Wales Procure to Pay e-Manual for use by Health Organisation' content is reviewed and updated where necessary and NWSSPPS works with the Health Board to actively publicise it.
4. Health Board: To detail the actions taken / planned actions to address the specific recommendations detailed in the Ernst & Young report.
5. Health Board: An urgent review of the eWaiver system is completed to ensure it delivers the full requirements of the Standing Financial Instructions and interacts with the e-Financials System and is a key control to corroborate approval/rejection of waivers prior to any requisition and purchase order being approved and actioned.
6. Health Board: The Chief Executive ensures the requirements of SFI 11.13.5 is complied with and the Audit Committee receive timely reports on waivers.
7. Health Board: The Board Secretary ensures Standing Order 9 – Signing and Sealing Documents is always complied with, in particular SO 9.0.1 where the Board has considered "...a transaction to which the document relates has been approved by the Board."
8. Health Board: The Chief Executive ensures contracts are signed in accordance with Standing Order 9.2.2 either by the Chief Executive or nominated officers delegated by the Board.
9. Health Board: The Scheme of Reservation and Delegation (SORD) is reviewed to ensure it complies with the requirements of Standing Order 9 as we noted the SORD delegates contract approval with limits to Executive Directors.
10. Health Board: The Executive Director of Finance ensures Finance Policies/Procedures are developed that provide all Health Board staff responsible for procurement detailed guidance and expectations to ensure compliance with Standing Financial Instructions and expected control in contract management.
11. Health Board: Working with NWSSPPS, develops a composite contract register for the Health Board to ensure the risk of independent contract development

is minimised and the Health Board maximises value for money where several contracts with a single supplier can be amalgamated.

12. Health Board: To ensure the Scheme of Delegation is applied appropriately in e-Financials, and is updated to ensure all of the organisation's structure is captured.
13. Health Board and NWSSP Procurement Services: Review escalation routes within the Health Board for the Head of Procurement.
14. Health Board and NWSSP Procurement Services: As part of the monthly meetings between both Finance & NWSSPPS, ensure reports pertaining to blank email/fax details in purchase orders are reviewed and corrective action taken to address irregularities.
15. Health Board: To review reporting arrangements with the local procurement team to determine requirements going forward, including Audit Committee reporting and attendance.
16. Health Board: The Chief Executive receives an update from Officers responsible for facilitating and delivering procurement training which includes the timetable for delivery capturing all current posts, how new appointees will receive their training and what refresher training will be provided and how e.g. On-line training presentation.

### **NWSSP Procurement Services**

17. NWSSP Procurement Services: The Supplier Header in 'eCM' data is consistent as set-up in Oracle e-Financial.
18. NWSSP Procurement Services: The Director of Procurement Services ensures all policies, procedures and guidance documents are up to date in line with the Standing Financial Instructions.
19. NWSSP Procurement Services: The Director of Procurement Services provides an annual assurance report to the Chief Executive, who is ultimately responsible for procurement in the Health Board, of compliance with the Standing Financial Instructions, including a summary of any breaches with expected procurement controls.
20. NWSSP Procurement Services: The Director of Procurement Services ensures NHS Wales is ready for any changes in the Procurement Bill to current process and provides updates to all NHS Wales Boards on any impacts of change – This is timebound.
21. NWSSP Procurement Services: Ensure all STW/SQW applications are scrutinised to ensure compliance with Standing Financial Instruction 11.13.3 and reject where the criteria has not been met.
22. NWSSP Procurement Services: To provide information to the Health Board on services provided to other Health Boards / Trusts.



### **Welsh Government**

23. Welsh Government: Review of the current tender limit is considered, whilst recognising the financial pressures facing NHS Wales.
24. Welsh Government: Consider enhancing the Standing Financial Instructions to exclude NHS Wales organisations from completing and approving Waivers based on timescales.

## Appendix B: List of Officers interviewed

Adrian Tomkins - Associate Director of Healthcare Contracting, BCUHB  
Andrea Hughes - Interim Finance Director: Operational Finance, BCUHB  
Carol Shillabeer – Interim Chief Executive & Accountable Officer, BCUHB  
Claire Salisbury - Assistant Director of Procurement Services, NWSSP  
Gillian Milne - Head of Healthcare Contracting, BCUHB  
Jonathan Irvine - Director of Procurement, NWSSP  
Michelle Phoenix – Audit Manager, Audit Wales  
Richard Daniel - Interim Director of Capital & Estates, BCUHB  
Sian Owens - Deputy Head of Procurement (BCUHB), NWSSP  
Simon Monkhouse – Audit Lead, Audit Wales  
Wyn Owens - Interim Head of Procurement (BCUHB), NWSSP

## Appendix C: Acronyms

- BCUHB: Betsi Cadwaladr University Health Board
- DMS: Document Management System
- EBME: Electro Bio-Medical Engineering
- eCM: Electronic Contract Management
- e-Financials: Electronic Financials
- EY: Ernst & Young
- IHC: Integrated Health Community
- KPI: Key Performance Indicator
- LD: Learning Disabilities
- NWSSP: NHS Welsh Shared Services Partnership
- NWSSPPS: NHS Welsh Shared Services Partnership Procurement Services
- OD: Organisational Development
- P2P: Procure to Pay
- PO: Purchase Order
- PS: Procurement Services
- QUO: Quotations
- SFI: Standing Financial Instructions
- SLA: Service Level Agreement
- SO: Standing Orders
- SORD: Scheme of Reservation and Delegation
- SQW: Single Quote Waiver
- STW: Single Tender Waiver
- WG: Welsh Government
- WHSSC: Welsh Health Specialised Services Committee

NHS Wales Shared Services Partnership  
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GIG  
CYMRU  
NHS  
WALES

Partneriaeth  
Cydwasaethau  
Gwasanaethau Archwilio a Sicrwydd  
Shared Services  
Partnership  
Audit and Assurance Services