

# Capital Systems

## Final Internal Audit Report

2024/25

Hywel Dda University Health Board/NHS Trust



Reasonable Assurance

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**Review Reference**

HDU\_SSU-2425-31

**Fieldwork**

October – November 2024

**Executive Sign Off**

25 November 2024

**Audit Committee**

November 2024

**Executive Lead**

Andrew Carruthers, Chief Operating Officer

**Head of Internal Audit**

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Eifion Jones

# Executive Summary

## Purpose

This audit was commissioned in accordance with the agreed 2024/25 Internal Audit Plan. Capital systems coverage during 2024/25 focused on the selection, appointment and contractual arrangements applied at Capital and Estates projects (covering both advisers and contractors).

## Overview

This audit was undertaken at a point of review and development for the Health Board – who had acknowledged that the existing framework was not aligned to current procurement objectives. The Health Board had undertaken significant steps to redevelop their framework, including liaising with other Health Boards and speaking to NWSSP Legal and Procurement teams, however the new framework had not been implemented at the time of the audit.

In addition to Standing Financial Instructions, there was a centrally accessible online repository to provide guidance and ensure a standardised approach to project management - this included various forms and documents to be completed throughout a project’s lifecycle.

Whilst good compliance was noted against the above, there were some matters that required further management attention e.g.:

- Parental guarantees should be requested as required.
- Anti-collusion/ Anti-corruption clauses should be included in all contracts.
- A Capital Contracts register should be centrally maintained.

Full details of matters arising are detailed within the Findings & Agreed Action Plan. The following opportunities for enhancement have been identified that do not impact the overall opinion and are highlighted for management information:

- The Health Board should review their framework and associated policies in line with current NWSSP Procurement policy.
- Signatures on contracts should be accompanied by a printed name.

We have concluded **reasonable** assurance in this area.

## Scope & Assurance Summary

Objectives	Related Findings	Assurance
1 Governance - To assess the application of appropriate procurement policies and procedures to Capital and Estates contracts and ensure that roles and responsibilities and approval requirements were adequately defined.	1	<b>Reasonable</b>
2 Contract Completion – To obtain assurance on the timely completion, recording, and approval of agreement/ contract versions in accordance with the approved contract strategy (with appropriate inclusions and clauses).	2 & 3	<b>Reasonable</b>
3 Selection and Appointment – To ensure the appropriate application of Standing Orders, Standing Financial Instructions (SFIs), national and local procurement policies for the selection and appointment of contractors and technical advisers. To ensure the application of appropriate competitive tender/quotation arrangements, the use of frameworks (as applicable) and the appropriateness of associated management and reporting.		<b>Substantial</b>

4	Value for Money and Award – To ensure that there was an appropriate assessment of value for money (e.g. via tendering/ quotation, benchmarking etc), with formal recommendations for award. Appropriate approvals were in place, that fully considered the above and any associated limitations.	<b>Substantial</b>
5	Retention of contract and project documentation - To obtain assurance that Capital and Estate’s contract information was retained for the requisite period (in accordance with national guidance) and that all contract documentation was held securely.	<b>Reasonable</b>

### Management Actions

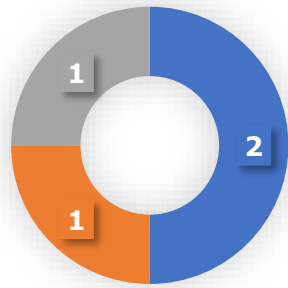


High Priority



Medium Priority

### Themes



- Contractual
- Governance
- Information, Data Quality & Data Accuracy

### Risk Types

- Financial Loss
- Legal & Regulatory Non-Compliance
- Public Perception & Reputational Risk

# Capital Systems - At a Glance

## Purpose

A total of 10 projects were sampled for this audit covering a range of financial years, values and funding sources as follows:

<b>Project title</b>	<b>Year</b>	<b>Contract Value (£)</b>	<b>Funding Mechanism</b>
PPH Bryngolau Remedial Work	2023	£23,659	Discretionary Capital Projects (DCP)
WGH Informatics Hub Room - Ph1 Enablement	2023	£61,091	Discretionary Capital Projects (DCP)
GGH LPG Enablement	2023	£131,992	EFAB
GGH Water Tanks	2024	£499,794	EFAB
HBW Vending Machines	2023	£25,000	Discretionary Capital Projects (DCP)
GGH Drainage Phases 3 & 4	2024	£407,719	EFAB
POL BGH Enlli Ward - Phase 3	2024	£208,205	EFAB
EFAB: ED/MIU Improvement Works	2024	£99,214	EFAB
LCH Drainage Upgrade	2023	£212,171	EFAB
GGH MRI Chiller Replacement Project	2024	£87,071	Discretionary Capital Projects (DCP)

# Findings & Agreed Action Plan

**Objective 1: Governance** **Reasonable**

The Health Board adopted the NHS Model Standing Financial Instructions and Standing Orders, Reservation and Delegation of Powers. The Scheme of Delegation had been regularly reviewed and had recently been submitted to the Audit and Risk Committee (ARAC) ahead of proposal to the UHB’s Board. Further policies were also in place relating to Procurement, Single Tender Actions, and Capital Finance.

There was also a centrally accessible online record of projects in place to provide guidance and ensure a standardised approach to project management. This included various forms and documents to be completed throughout the project’s lifecycle. This structured approach helped maintain transparency and accountability within the department and generally good compliance was observed,

The Chief Executive’s office advised that Procurement held a formal register of contracts, however despite a purchase order being created on NWSSP’s Business Intelligence system Qlikview for all capital projects, Procurement had not included these projects within their contract listing.

Key Findings		Risk & Impact	Agreed Management Action
1	<p>All estate’s projects were found to be managed on a centrally accessible HDUHB Microsoft Lists, also accessible via SharePoint. This had restricted access security arrangements.</p> <p>The overall arrangements for project documentation and governance were generally adequate, however there was not a formal centrally held capital contracts register in place at the Health Board.</p>	<p>Key project information is not available if a challenge, claim or dispute arises - weakening the position of the UHB</p>	<p>Proposed Management Action:</p> <p>The matter will be raised at the Capital Monitoring Forum to ensure obligations related to keeping a register are discharged by the Health Board and an agreement to be made as to who will be responsible for this.</p> <hr/> <p>Expected Evidence of Implementation:</p> <p>A formal capital register should be available for inspection.</p>
		<b>Medium Priority</b>	Officer: Julian Wheeler-Jones
Theme: Governance		Control Design	Date: 31 <sup>st</sup> December 2024

The Health Board operated a shared Construction Framework with Swansea Bay UHB which was compliant with UK/EU procurement legislation.

This multi-supplier framework agreement covered the provision of project and design services. All suppliers had been added to the framework following a robust and compliant tendering process.

NWSSP Procurement Services, on behalf of HDUHB, establish single Call-Off Contracts and direct award is utilised for all framework agreements.

In testing it was found that all contracts were direct award on rotation per the local framework, using a call off contract with single stage award via the JCT minor works or the JCT intermediate works process. A tender analysis had been undertaken for each contract including benchmarking, which mitigated the risk that the tender did not provide value for money or was inappropriately awarded from a contractor experience perspective.

Challenge was observed on occasions when the tender analysis identified a higher value at tender versus market benchmarking, and a recommendation was made to revise the tender awarded accordingly.

A Value for Money Statement is issued at each direct award from the framework highlights the following:

- "Direct award allows for quicker procurement"
- "Direct award ensures transparency in the selection process"
- "Direct award puts the services' needs first."
- "By avoiding the need for a lengthy competitive tender process, direct award frees up resources from clinical teams, estates teams and wider that would otherwise be spent on procurement information and procedures"

The contracts sampled all used direct award which was in line with the Health Board's Statement of Value for Money (excerpted above).

Further there was clear evidence of evaluation to ensure Value for Money, which also considered items of a qualitative nature.

It should be noted that the framework and tendering policies referred to above do not align with recent NWSSP procurement guidance, which discourages use of direct awards on rotation other than in exceptional circumstances such as emergency works. It is recognised that this guidance was not in place at the time of the tendering or contractual activities of the contracts sampled. Management confirmed that they were cognisant of this, and the new framework was being established to comply with the new procurement rules (to be introduced in February 2025).

## Objective 4: Contract Completion

Reasonable

From the 10 projects sampled, 10 had a dated contract.

All sampled projects included delay damages clauses; the average delay damages being £615 a week. Delay damages ranged from £150-£1000 per week with a correlation between the value of contract and the value of delay damages provided.

Contracts clearly stated in all cases whether parent guarantees would be required - 6 stated they were not required or were below the size where a guarantee would be required. 4 confirmed the requirement to have a parent guarantee due to size. From the 3 contractors delivering the 4 projects where a parent guarantee was required, all 3 had parent companies.

The parent status had not been acknowledged by the Capital Project's team, as the wholly owned subsidiary nature of the contractor had not been identified by Procurement at the tendering for the framework contracts. Accordingly, the parent company guarantee had not been requested in these cases, despite the status showing on credit reports undertaken on the contractors.

Contracts clearly identified details such as key dates, weather stations, pricing, framework and agreed price. All contracts used a template provided by an external legal advisor.

All 10 contracts that were executed were signed in accordance with the Health Board Scheme of Delegation at the time.

### Key Findings

### Risk & Impact

### Agreed Management Action

2 Contracts clearly stated in all cases whether parent guarantees would be required - 6 stated they were not required due to the size of the project, whilst 4 stated they would.

Across the 3 contractors covering those 4 projects, all 3 had parent companies. The group membership status of the contractor had not been acknowledged by the Capital Projects team, since during the framework selection process, the wholly owned subsidiary nature of the contractor had not been identified by Procurement, despite the status showing in credit checks undertaken by the Capital Team. Accordingly, the parent company guarantees had not been requested.

It is not possible to make informed decisions related to entering into contracts with a contractor without fully understanding the structure of that contractor's wider group to mitigate reputational and financial risk.

That financial loss is incurred by the Health Board as a result of failure of the contractor to complete the contract due to financial collapse of the contractor or group.

Proposed Management Action:

1. D&B Reports will be completed for Parent Companies of framework contractors as well as for contractors on an annual basis.
2. Parental Guarantees will be requested from the Parent company of contractors where required by the contract or Health Board Standing Financial Instruments.

Expected Evidence of Implementation:

Parent and contractor credit checks will be available to inspect for any framework companies who are members of a Group.

Parent guarantees will have been requested and put in place as required by Health board SFI's.

**Medium Priority**

Officer: Julian Wheeler Jones

Date: 1. 13<sup>th</sup> December 2024 2. Future contracts

Theme: Contractual

Control Operation



3	<p>Anti-collusion/ anti-corruption clauses were not included in the standard contract template at 7 of 10 contracts sampled. Three included a mandatory exclusion questionnaire which identified specific situations where a contract would not be considered.</p> <p>Schedule 1 of All Wales SFIs specify that "one of the main legal and governing principles guiding public procurements are... Integrity: there should be no corruption or collusion with suppliers or others" (Paragraph 1.3, Page 61).</p> <p>Additionally it states that "In every contract document a clause shall be included to secure that the UHB shall be entitled to cancel the contract and to recover from the contractor the amount of any loss resulting from such cancelation, 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 for doing or forbearing to do, or having done or forborne to do, any action in relation to the obtaining or execution of the contract or any other contract with the UHB or if the like acts shall have been done by any person employed by him acting on his behalf (whether with or without the knowledge of the contractor) or if in relation to any contract with the UHB the contractor or any persons employed by him or acting on his behalf shall have committed an offence under the Prevention of Corruption Acts 1906 (c.34) and 1916 (c.64) and the Public Bodies Corrupt Practices Act 1889 (c.69) and as defined in the Standards of Business Conduct for Employees of the LHB." (Paragraph 13.2, Page 72-73).</p>	<p>Financial or reputational risk could be heightened for the Health Board by entering contracts with organisations where risk of collusion or corruption are heightened, without contracts including mitigative clauses.</p>	<p>Proposed Management Action: JCT clauses to be referenced and included on future contracts.</p> <hr/> <p>Expected Evidence of Implementation: JCT clauses to be referenced and included on future contracts.</p> <hr/> <p>Officer: Julian Wheeler-Jones Date: 13<sup>th</sup> December 2024</p>
	Theme: Contractual	<p><b>Medium Priority</b></p> <p>Control Design</p>	

## Objective 5: Retention of Documents

Reasonable

The Health Board confirmed that project documentation including contract information is retained for "10 years after the contract ends". The Welsh Government 'Records Management Code of Practice for Health and Social Care' states that "contracts executed as a deed, sealed or unsealed" should be "retained for a 6 year" period.

10 contracts sampled were executed as a deed, which conveys longer liability periods of 12 years, or the useful life of the associated building/s (or their disposal).

The guidance provided in the Best Practice guide is inadequate, and, as such, the retention time determined by the Health Board of 10 years is also inappropriate.

The Health Board confirmed arrangements for storing contract and procurement documentation which were adequate and made use of physical security devices such as digital door locks. The archive room is treated as a "hazard room with a fire door, self-closing device and a digital door lock".

### Key Findings

### Risk & Impact

### Agreed Management Action

4 10 contracts sampled were executed as a deed, which conveys longer liability periods of 12 years or the useful life of the associated building/s (or their disposal): accordingly, the proposed retention period of 10 years is insufficient.

Financial or performance-based loss could be incurred by the Health Board due to lack of evidence of contract-based mitigation.

Proposed Management Action:

The Health Board will revise its contract retention policy to reflect the extended liability period associated with Contracts executed as a deed.

Expected Evidence of Implementation:

Contracts will be retained for a period of no less than 12 years or the useful life of the building, in line with the revised retention policy.

**Medium Priority**






Officer: Chief Executive's office  
Date: 31<sup>st</sup> December 2024

Theme: Information & Data Management

Control Design

# Appendix A

## Assurance Opinion

	<b>Substantial</b>	Few matters require attention and are compliance or advisory in nature. <b>Low impact</b> on residual risk exposure.
	<b>Reasonable</b>	Some matters require management attention in control design or compliance. <b>Low to moderate impact</b> on residual risk exposure until resolved.
	<b>Limited</b>	More significant matters require management attention. <b>Moderate impact</b> on residual risk exposure until resolved.
	<b>Unsatisfactory</b>	Action is required to address the whole control framework in this area. <b>High impact</b> on residual risk exposure until resolved.
	<b>Advisory</b>	Given to reviews and support provided to management which form part of the internal audit plan, to which the assurance definitions are not appropriate. These reviews are still relevant to the evidence base upon which the overall opinion is formed.

## Prioritisation of Findings

Priority	Explanation
<b>High</b>	Significant risk to achievement of a system objective OR evidence present of material loss, error, or misstatement. Poor system design OR widespread non-compliance.
<b>Medium</b>	Some risk to achievement of a system objective. Minor weakness in system design OR limited non-compliance.

Website: [Audit & Assurance Services - NHS Wales Shared Services Partnership](#)

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## Public Sector Internal Audit Standards

Audit work undertaken by NHS Wales Audit and Assurance Services conforms with the International Standards for the Professional Practice of Internal Auditing and associated Public Sector Internal Audit Standards as validated through the external quality assessment undertaken by the Chartered Institute of Public Finance & Accountancy in April 2023.

