

Financial Safeguarding: Design Team Led CRL Projects

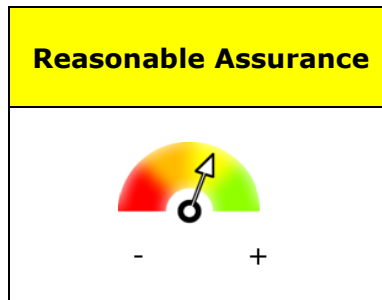
Final Internal Audit Report

2019/20

Hywel Dda University Health Board

NHS Wales Shared Services Partnership

Audit and Assurance Services



CONTENTS	Page
Introduction and Background	4
Scope and Objectives	4
Associated Risks	5
Opinion and Key Findings	
Overall Assurance Opinion	6
Assurance Summary	7
Summary of Audit Findings	7
Conclusion and Recommendations	
Summary of Recommendations	12

Appendix A	Management action plan
Appendix B	Audit assurance ratings
Appendix C	Discretionary Capital Projects [Design]: summary of testing

Review reference:	SSU_HDU_1920_06.2
Report status:	Final
Fieldwork commencement:	31 July 2019
Fieldwork completion:	11 October 2019
Draft report issued:	16 October 2019
Proposed final report issued:	29 October 2019
Final management comments received:	13 November 2019
Executive sign off received:	21 November 2019
Final report issued:	28 November 2019
Auditor/s:	NWSSP: Audit & Assurance - Specialist Services Unit
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ACKNOWLEDGEMENT

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

Please note:

This audit report has been prepared for internal use only. Audit & Assurance Services reports are prepared, in accordance with the Service Strategy and Terms of Reference, approved by the Audit Committee.

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1. Introduction and Background

Fraud within the NHS Capital, Estates and Facilities functions has been more prevalent in recent years, with two recent examples being:

- A well-publicised incident within NHS Wales where three Estates officers were jailed in November 2018 after being found guilty of defrauding the NHS of £822,000; and
- Another in Gloucestershire Hospitals NHS Foundation Trust where a senior Estates official was similarly sentenced for abusing his position and defrauding the NHS of £870,490.

Therefore, in accordance with the agreed 2019/20 internal audit plan, the review sought to affirm that there were effective controls and systems operating to deter and safeguard against potential fraud within Hywel Dda University Health Board's ('the UHB') capital, estates and facilities function.

This review focused on discretionary capital projects managed by the Design Team and should be read in conjunction with the separate report produced on the Maintenance Team.

2. Scope and Objectives

The objective of the audit was to evaluate and determine the adequacy of the systems and controls in place for governance at the project, in order to provide reasonable assurance to the Audit Committee that appropriate arrangements were in place to achieve the desired objectives / outcomes.

The scope of the audit was limited to procurement exercises associated with capital projects which were financed by discretionary funding [below £1m], pre-planned maintenance and reactive maintenance programmes.

The audit did not cover major capital projects, or the purchase of medical devices.

Accordingly, the scope and remit of the audit included the following:

- **Declarations of interest** – assurance that:
 - Appropriate guidance and procedures exist for the declarations of interest and compliance is demonstrated in respect of the same; and
 - Appropriate arrangements are in place to enable concerns and breaches to be raised; and
 - Appropriate training is afforded to relevant staff.

- **Quotation / Tender / Local Order processes** – assurance that:
 - An appropriate governance framework is in place in respect of the procurement, tender, contract letting, local order processes (both manual and automated); and
 - Compliance is demonstrated against established internal control framework (and best practice) for selection and appointment
- **Segregation of duties / delegated authority** - assurance that:
 - Appropriate guidance and procedures exist for segregation of duties in the management and selection of quotes/tenders/local orders; and compliance is demonstrated in respect of the same.
 - All approvals are appropriately sought and decisions are appropriately authorised and adequately informed.
- **Verification of contractor / supplier arrangements** – assurance that:
 - Verification is undertaken, prior to the appointment of contractors/suppliers, including adequate financial vetting, verification of positions held by key directors; and
 - Information is produced on the award of contracts, fair rotation of contractors, analysis of key suppliers etc. – allowing analysis of tender/quotation returns and to identify any patterns of unusual behaviour.
- **Monitoring and reporting** - reporting and accountability lines are well defined, understood and applied.
- **Verification of works completed** – assurance that works are completed in accordance with award criteria.
- **Stock control** – assurance that appropriate stock control systems are in place [including re-ordering, issue and return] to manage the materials utilised in delivery of pre-planned and reactive maintenance; and projects managed by Maintenance.
- **Other** – review of any other issues relevant to the general objectives above which may arise during the review.

3. Associated Risks

The potential risks considered in the review are as follows:

- Breach of mandatory regulations;
- Non-compliance with established internal controls impacting the achievement of project objectives;

- Tender arrangements did not comply with local/national requirements and value for money was not demonstrated;
- Tender processes were not sufficiently robust to minimise / mitigate collusion and/or fraud;
- Personal interests, or interests that they owe to another body, influenced or affected the individual's decision making;
- Poor risk identification and management resulted in the UHB being un-informed in relation to cost, time and quality performance; and
- Failure to prioritise high-risk areas in the estate.

OPINION AND KEY FINDINGS


4. Overall Assurance Opinion

We are required to provide an opinion as to the adequacy and effectiveness of the system of internal control under review. The opinion is based on the work performed as set out in the scope and objectives within this report. An overall assurance rating is provided describing the effectiveness of the system of internal control in place to manage the identified risks associated with the objectives covered in this review.

General compliance was noted with the established control frameworks in each of the applicable objective areas reviewed. However, certain enhancements have been recommended in respect of:

- Compliance with the Single Tender Procedure;
- Provision of evidence of financial vetting; and
- Expansion of coverage in procurement activity reporting.





Against the context of the matters detailed above, the overall level of assurance has been assessed as **reasonable**.

RATING	INDICATOR	DEFINITION
Reasonable Assurance		The Board can take reasonable assurance that arrangements to secure governance, risk management and internal control, within those areas under review, are suitably designed and applied effectively. Some matters require management attention in control design or compliance with low to moderate impact on residual risk exposure until resolved.

The overall level of assurance that can be assigned to a review is dependent on the severity of the findings as applied against the specific review objectives and should therefore be considered in that context.

5. Assurance Summary

The summary of assurance given against the individual objectives is described in the table below:

Assurance Summary					
1	Declarations of interest		✓		
2	Quotation / Tender / Local Order processes			✓	
3	Segregation of duties / delegated authority				✓
4	Verification of contractor / supplier arrangements			✓	
5	Monitoring and reporting			✓	
6	Verification of works completed				✓
7	Stock control	Not applicable			

* The above ratings are not necessarily given equal weighting when generating the audit opinion.

Design of Systems/Controls

The findings from the review have highlighted **0** issues that were classified as weaknesses in the system control/design for Financial Safeguarding.

Operation of System/Controls

The findings from the review have highlighted **3** issues that were classified as weaknesses in the operation of the designed system/control for Financial Safeguarding.

6. Summary of Audit Findings

The key findings are reported within the Management Action Plan (**Appendix A**).

To focus the audit testing on external contractual appointments (less than £1m) made by the Design team, schedules were requested to determine the number of contracts in place and total value for 2018/19 and April 2019 to date:

- 2018/19 – 11 contracts, value circa £2,740k
- April 2019 to date – 4 contracts, value circa £705k



6.1 Declarations of interest

We sought assurance that appropriate guidance, procedures were available for declarations of interest, and compliance was demonstrated in respect of the same. We also sought assurance that appropriate arrangements were in place to enable concerns and breaches to be raised; and assurance that appropriate training is afforded to relevant staff.

A governance framework was in place for declarations of interest, namely the Standards of Behaviour Policy, which was available for all members of UHB staff via the intranet.

The policy stated that *'all staff employed in areas of deemed specific 'high risk' will be asked to complete a declarations of interest form'*. Included in the 'high risk' category were Facilities Operational Services staff and Facilities Specialists Services staff. To confirm compliance, our review was limited to those named officers involved in the appointment processes of external contractors sampled during this audit.

With the exception of two projects, both of which had the contractor selection process managed by NWSSP: Procurement Services, there was no evidence of such declarations having been obtained.

It was noted that this had been raised, as a recommendation within the Estates Directorate Internal Audit, therefore will not be replicated in this report (see **recommendation 1**).

Noting the recommendation raised in the Estates Directorate Internal Audit review [19/20] for a log to be maintained centrally and interests to be reported quarterly to the Directorate team meeting, **limited assurance** has been determined.



6.2 Quotation / Tender / Local Order processes

We sought assurance that an appropriate governance framework was in place in respect of the procurement, tender, contract letting and local order processes (both manual and automated); and that compliance was demonstrated against an established internal control framework (and best practice) for selection and appointment.

Governance framework

Standing Financial Instructions, Standing Orders and the Single Tender Procedure were all readily available to provide guidance in respect of procurement processes.

Operational procedures were also available, through the Capital Investment Procedure, which includes coverage of the Discretionary Capital Projects ('DCP').

Guidance was also available for reporting of concerns / breaches in the quotation / tender processes through the UHB's Whistleblowing Policy.

Compliance with Procedures

Details of the projects reviewed are set out within Appendix C.

A paper based tender exercise was applied for three of the projects reviewed. Compliance with procedures was confirmed in the management of the number of contractors selected for tender / quotation and the evaluation process prior to appointment.

For one project, the UHB applied paragraph 10.8 of the Standing Financial Instructions ¹ in the appointment of the contractor. However, the required financial limits to be applied did not accord with quotation received (**recommendation 2**).

Therefore, noting the deviation from the required financial threshold for one of the projects reviewed, **reasonable assurance** has been determined.

6.3 Segregation of duties / delegated authority



We sought assurance that appropriate guidance and procedures were available for segregation of duties in the management and selection of quotes / tenders / local orders and that compliance was demonstrated in respect of the same. We also sought assurance that approvals were appropriately sought and decisions were appropriately authorised and adequately informed.

The procurement exercises undertaken for Discretionary Capital by the Design team had robust procedures in place to manage segregation of duties through the paper based tender exercises adopted. Management stated that this process should be strengthened as the decision had been taken to move all tender exercises [value greater than £25k] to the Bravo (e-tender) platform. Supported by NWSSP: Procurement Services, this should further facilitate segregation of duties. It is anticipated this will be in effect from November 2019.

Noting the adequate segregation of duties for work; and the intention to move to e-tendering, **substantial assurance** has been determined.

6.4 Verification of contractor / supplier arrangements



We sought assurance that appropriate verification was undertaken prior to the appointment of contractors / suppliers, including adequate financial vetting and verification of positions held by key directors. We also sought assurance that information was produced on the award of contractors, analysis of key suppliers etc. - allowing analysis of tender / quotation returns and to identify any patterns of unusual behaviour.

¹ Standing Financial Instructions [paragraph 10.8]. Subject to complying with any legal requirements and agreed contract conditions, a contract may be extended on a single occasion provided the original 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.

Financial vetting

Section 5 of Schedule 1 to the Standing Financial Instructions states *'it is the responsibility of the Director of Finance, Planning & Performance 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'*

Within the Design team, there is an approved contractors listing. One of the stipulations for appointment on the approved listing was for the contractor to be registered with Constructionline. Through this registration, they have completed PAS 91 (Publicly Available Specification) [or responses aligned accordingly dependent on the level of the membership held by the contractor]; which includes data on company financial information. As such, no further financial vetting is undertaken by the UHB. This approach should be reviewed by the UHB, as Constructionline review of financial information is undertaken annually and can therefore be up to 12 months old **(recommendation 3)**.

Reporting on award of contractors

Schedule 1 (Section 7.25) of the UHB's Standing Financial Instructions state that *'overall monitoring of the contracts awarded shall be the responsibility of the Director of Finance, Planning and Performance, who shall present a report annually to the Board detailing the number and value of all contracts placed during the previous financial year in excess of the Health Board's tender limit'*.

The above implies that this is required only for tendering exercises entered into which are above the £25k threshold.

An annual report was prepared addressing the capital investment plans; key investments through the DCP; capital projects being undertaken; acute and other project developments; infrastructure/statutory projects; property performance; and estates key performance indicators.

A 12-month review paper was prepared by the DCP [Design] team providing details of the projects undertaken during the year and the relevant appointed contractor. Details of value and tender price against expected value was not provided – however, management stated this was regularly reported to the Capital Management Forum (**ref Section 6.5 to this report**).

To enhance existing reporting, reports prepared by other UHBs were reviewed. It was noted additional details including the number of suppliers / contractors approached; details of the suppliers / contractors who provided a return; and detail of the successful supplier / contractor are usually provided. The provision of such information should allow further reporting on patterns of tendering, as well as total UHB spend by supplier **(recommendation 4)**.

Noting the current level of reporting, and the recommendations for enhancement, **reasonable assurance** has been determined.

6.5 Monitoring and reporting



We sought assurance that reporting and accountability lines were well defined, understood and applied.

The Capital Monitoring Forum received monthly DCP project updates for those managed by Design. Comprehensive reporting included details of responsible officers, timelines, capital allocations and progress to date.

A review of the DCP Design team reporting noted inclusion of the procurement route and value, but no information regarding the successful contractor (**recommendation 4**).

Taking into account the current level of monitoring and reporting undertaken, and recommendations for improvement, **reasonable assurance** has been determined.

6.6 Verification of works completed



We sought assurance that works were completed in accordance with award criteria.

Of the four DCP Design Team projects reviewed, two had reached a stage of completion. In both instances, a certificate of practical completion had been issued appropriately.

As such, the level of assurance determined in this area is **substantial**.

6.7 Stock Control

Not applicable

We sought assurance that appropriate stock control systems were in place [including re-ordering, issue and return] to manage the materials utilised in the delivery of maintenance work.

It was evident from the sample of DCP Design Team projects that stores were not accessed to supply the works. Accordingly, no opinion is given on this objective at this report.

7. Summary of Recommendations

The audit findings, recommendations are detailed in Appendix A together with the management action plan and implementation timetable.

A summary of these recommendations by priority is outlined below:

Priority	H	M	L	Total
Number of recommendations	-	2	1	3
Recommendation included in Estates Directorate report				1
Total recommendations				4

Finding: Declarations of interest	Risk
<p>A governance framework was in place for declarations of interest, namely the Standards of Behaviour Policy, which was available for all members of UHB staff via the intranet.</p> <p>The policy stated that <i>'all staff employed in areas of deemed specific 'high risk' will be asked to complete a declarations of interest form'</i>. Included in the 'high risk' category were Facilities Operational Services Staff and Facilities Specialists Services Staff. To confirm compliance, review has been limited to those named officers involved in the appointment processes of external contractors sampled during this audit.</p> <p>With the exception of two projects, both of which had the contractor selection process managed by Procurement, there was no evidence of such declarations having been obtained.</p> <p>It was noted that this had been raised, as a recommendation within the Estates Directorate Internal Audit, therefore will not be replicated in this report.</p>	<p>Key staff in positions of influence do not declare potential conflicts of interest.</p>
Recommendation 1	Priority level
<p>See Estates Directorate Internal Audit report issued October 2019.</p> <p>Subsequent to the audit, evidence of declarations of interest forms [completed by the Design team] was made available. The forms were signed retrospectively to provide full assurance of no conflicts during the period April 2018 to date.</p>	

Finding: Compliance with Procedures	Risk
<p>Compliance with the governance framework and the Capital Investment Procedure was confirmed in the management of the number of contractors selected for tender / quotation and the evaluation process prior to appointment. Details (<i>refer to Appendix C</i>) supporting one of the DCP [Design] appointments (Minor Ward Refurbishment, 3 & 8, WGH) implied a single tender action was applied. No competitive tender exercise was undertaken, rather the current contractor working on Wards 9 & 10 was approached to provide a quote for the work required.</p> <p>The evaluation report referred to a clause within the Standing Orders... <i>'a contract may be extended on a single occasion provided the additional cost does not exceed 50% of the original value to a maximum of £75k inc VAT'</i>.</p> <p>For this project, the value quoted by the contractor was less than 50% but slightly more than the £75k requirement [£75,390]. The quotation included a contingency of £3k, which the UHB disregarded to demonstrate compliance with the Standing Orders.</p>	<p>Non-compliance with expected internal controls.</p>
Recommendation 2	Priority level
<p>Staff should be reminded of the requirements of the Single Tender Procedure to ensure compliance in all instances. (O)</p>	<p>Medium</p>

Management Response	Responsible Officer/ Deadline
This will apply to all future projects and will be discussed with the wider design team at the next team briefing.	Assistant Director of Estates, Facilities & Capital Management Discretionary Capital Projects Manager At future awards

Finding: Financial Vetting	Risk
<p>Schedule 1 (Section 5.1) of the Standing Financial Instructions states that: <i>It is the responsibility of the Director of Finance, Planning & Performance 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.</i></p> <p>The tender route is for contract / project values greater than £25k therefore applicable for all of the DCP projects led by the Design team.</p> <p>For all projects management advised that reliance was placed on data from Constructionline [of which registration is a pre-requisite for appointment to the Approved Contractor listing]. It is acknowledged that management provided evidence, at the date of the audit, which confirmed the contractors are classed as 'verified' and 'green status' under Constructionline. However, there was no evidence to confirm this had been reviewed at the date of tender process.</p>	<p>The UHB's financial interests are not adequately protected.</p> <p>Financial risk in the event of contractor failure.</p>
Recommendation 3	Priority level
<p>Financial vetting should be undertaken prior to entering into any contractual arrangements greater than £25k. Evidence of the vetting should be retained in the evaluation report. (O)</p>	<p style="text-align: center;">Medium</p>

Management Response	Responsible Officer/ Deadline
Dun & Bradstreet reports will be produced by Procurement for the lowest two bidders for every tender submission. Financial status will be advised on the Tender Report with recommendations.	Assistant Director of Estates, Facilities & Capital Management Discretionary Capital Projects Manager Immediate

Finding: Procurement Activity Reporting – Capital Monitoring Forum	Risk
<p>A detailed suite of information was provided, on a monthly basis, to report to the Capital Monitoring Forum. This incorporates:</p> <ul style="list-style-type: none"> • Current projects; • Responsible officers; • Procurement route [and value]; • Stages and timelines for the project; and • Project progress at date of reporting. <p>However, no information was provided regarding the appointed contractor.</p> <p>An annual Procurement Activity Report was also prepared. This was reviewed against other UHB reports; and it was noted that additional details were included:</p> <ul style="list-style-type: none"> • Number of suppliers / contractors approached to tender; • Details of the suppliers / contractors who provided a return; and • Detail of the successful supplier / contractor. <p>The provision of such additional information should allow further reporting on patterns of tendering as well as total UHB spend by individual supplier.</p>	<p>Tender arrangements do not comply with local requirements and value for money not demonstrated. Fair rotation of contractors is not evident in the appointments made.</p>
Recommendation 4	Priority level
<p>Management should review the detail of the current procurement activity reporting for Design-led procurement and strengthen where appropriate-(O)</p>	<p style="text-align: center;">Low</p>

Management Response	Responsible Officer/ Deadline
The suite of information presented to the Capital Monitoring Forum has been updated to include the appointed contractor. Internal Audit has provided examples of additional information to be presented in the annual report which will be considered accordingly.	Discretionary Capital Projects Manager March 2020

Audit Assurance Ratings



Substantial assurance - The Board can take **substantial assurance** that arrangements to secure governance, risk management and internal control, within those areas under review, are suitably designed and applied effectively. Few matters require attention and are compliance or advisory in nature with **low impact on residual risk** exposure.



Reasonable assurance - The Board can take **reasonable assurance** that arrangements to secure governance, risk management and internal control, within those areas under review, are suitably designed and applied effectively. Some matters require management attention in control design or compliance with **low to moderate impact on residual risk** exposure until resolved.



Limited assurance - The Board can take **limited assurance** that arrangements to secure governance, risk management and internal control, within those areas under review, are suitably designed and applied effectively. More significant matters require management attention with **moderate impact on residual risk** exposure until resolved.



No Assurance - The Board has **no assurance** that arrangements to secure governance, risk management and internal control, within those areas under review, are suitably designed and applied effectively. Action is required to address the whole control framework in this area with **high impact on residual risk** exposure until resolved

Prioritisation of Recommendations

In order to assist management in using our reports, we categorise our recommendations according to their level of priority as follows.

Priority Level	Explanation	Management action
High	Poor key control design OR widespread non-compliance with key controls. PLUS Significant risk to achievement of a system objective OR evidence present of material loss, error or misstatement.	Immediate*
Medium	Minor weakness in control design OR limited non-compliance with established controls. PLUS Some risk to achievement of a system objective.	Within One Month*
Low	Potential to enhance system design to improve efficiency or effectiveness of controls. These are generally issues of good practice for management consideration.	Within Three Months*

* Unless a more appropriate timescale is identified/agreed at the assignment.

Discretionary Capital Projects [Design]: summary of testing

Contract	Pre tender estimate	Tendered amount	Procurement route	Number of contractors invited to tender	Financial vetting ²	Segregation of duties	Authorised appropriately	Declarations of Interest	Matters arising
Refurbishment works HSDU [GGH]	£652,411	£549,933	Paper tender	5	x	✓	✓	x	Financial vetting implied through contractor registration with Constructionline. No evidence of completion of review prior to award of contract [section 8.1c of the Data Pack]
Heavy Fuel Oil changeover scheme [GGH]	£100,000	£102,595	Paper tender	4	x	✓	✓	x	Financial vetting implied through contractor registration with Constructionline. No evidence of completion of review prior to award of contract [section 8.1c of the Data Pack]
External Fabric Repairs [Penlan]	£282,098	£285,139	Paper tender	5	x	✓	✓	x	Financial vetting implied through contractor registration with Constructionline. No evidence of completion of review prior to award of contract [section 8.1c of the Data Pack]
Minor Refurbishment: Wards 3 & 8 [WGH]	£140,177	£75,390	Quotation	1	Extension to a contract already in place for another project [at the same site]			x	No competitive tender exercise undertaken. Current contractor working on Wards 9 & 10 approached to provide quote for work required. Reference has been made to the Standing Orders 'a contract may be extended on a single occasion provided the additional cost

² As implied by the Standing Financial Instructions, financial vetting relates to those contracts tendered competitively therefore £25k.

Contract	Pre tender estimate	Tendered amount	Procurement route	Number of contractors invited to tender	Financial vetting ²	Segregation of duties	Authorised appropriately	Declarations of Interest	Matters arising
									<p><i>does not exceed 50% of the original value to a maximum of £75,000 inc VAT'</i></p> <p>The quotation includes a contingency for £3k, which has been disregarded in demonstrating compliance with the standing orders.</p>