

Hywel Dda University Health Board

Contracting

Final Internal Audit Report

May 2020

Private and Confidential

NHS Wales Shared Services Partnership

Audit and Assurance Services



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Auditor/s:	Jennifer Usher
Executive sign off:	Huw Thomas, Director of Finance
Distribution:	Shaun Ayres, Assistant Director of Value Based Contracting
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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 Institute of Internal Auditors.

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1. Introduction and Background

The review of the management of contract arrangements was completed in line with Hywel Dda University Health Board Internal Audit Plan for 2019/20. The lead Executive Director for the review was the Director of Finance.

2. Scope and Objectives

The overall objective of the review was to evaluate and determine the adequacy of the systems and controls in place within the Health Board for the management of contract arrangements in order to provide assurance to the Audit & Risk Assurance Committee that risks material to the achievement of system's objectives are managed appropriately.

The main areas that the review sought to provide assurance on were:

- There is a consistent approach taken by the Health Board when establishing contracts;
- Budgets and forecasts are prepared and based on contracts and expected income;
- There is effective management control over contract performance; and
- There are appropriate reporting arrangements in place to ensure contract management issues and performance are reported through to the Health Board.

A sample of long-term agreements (LTAs), managed by the Healthcare Contracts Team and service level agreements (SLAs), managed by directorates were reviewed during this audit.

The delivery of audit fieldwork was undertaken prior to the national measures introduced by the Welsh Government following the outbreak of coronavirus COVID-19.

3. Associated Risks

The potential risks considered in the review were as follows:

- Contracts are put in place that do not meet the needs of the Health Board or service users; and
- Services are not delivered within budget, to the required level and/or quality.


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.

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.

The level of assurance given as to the effectiveness of the system of internal control in place to manage the risks associated with Contracting is **Limited** assurance.

RATING	INDICATOR	DEFINITION
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.

A paper was submitted to the Finance Committee in June 2019 by the then Interim Healthcare Contracting Consultant highlighting the lack of a robust contract management strategy and framework for LTAs and SLAs within the organisation.

Following the submission of this paper, we can confirm actions have been undertaken to address the issues in regard of a contract management strategy and framework for LTAs, whilst weaknesses with the SLA contracts have been identified by management but are yet to be fully addressed.

Long-Term Agreements

A review of LTAs during this audit identified the progression of actions undertaken by the Healthcare Contracts Team that have resulted in regular reports of LTA performance to the Finance Committee, including breakdowns of forecasting, budget and contract monitoring reviews.

Whilst we noted the positive actions implemented by the Healthcare Contracts Team, the following findings require further work in regard of LTAs.

- Contracts held on file were not approved by an appropriate authorised signatory within their delegated financial limit; and
- LTA contracts retained on file were not fully signed and dated by authorised signatories prior to the commencement of the contractual period.

Service Level Agreements

The management of SLAs is the responsibility of directorates and services, with Finance Business Partners providing support in regard of the financial element of the contracts.

Since the paper submitted to the Finance Committee in June 2019, a contracts register has been established by the Healthcare Contracts Team to capture all contracts including SLAs.

However, concluding testing on a sample of SLAs during this review, the following key findings were identified:





- The lack of evidence to support forecasting exercises had been undertaken for SLA contracts currently in place;
- The lack of contract monitoring and budget reviews to ensure the services provided and accessed meet Health Board requirements;
- The lack of evidence to support any action taken by the Health Board in line with the terms and conditions set out in SLA contracts; and

In addition, medium priority findings were also identified in regard to a lack of regular reports of SLA contract performance, lack of a policy or standard operating procedures to support the process of contract formulation and acceptance, information incomplete in the contracts register and the lack of formal documentation authorised by appropriate individuals for extension of contracts.

The findings identified within this report has resulted in an overall Limited assurance rating been awarded.

5. Assurance Summary

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

		Assurance Summary*			
Audit Objective					
1	There is a consistent approach taken by the Health Board when establishing contract			✓	
2	Budgets and forecasts are prepared and based on contracts and expected income		✓		
3	There is effective management control over contract performance		✓		
4	There are appropriate reporting arrangements in place to ensure contract management issues and performance are reported through to the Health Board		✓		

* 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 two issues that are classified as weaknesses in the system control/design for Contracting. These are identified in the Management Action Plan as (D).

Operation of System/Controls

The findings from the review have highlighted seven issues that are classified as weaknesses in the operation of the designed system/control for Contracting. These are identified in the Management Action Plan as (O).

6. Summary of Audit Findings

The key findings are reported in the Management Action Plan at Appendix A.

OBJECTIVE 1: There is a consistent approach taken by the Health Board when establishing contracts.

Currently, there are no policies or standard operating procedures to support the process of contract formulisation and acceptance.

Of the 15 contracts sampled during this review, two LTA documents made reference throughout the contract in relation to deadlines ending in the previous financial year (2018-19). This was highlighted to management during fieldwork.

See Finding 6 in Appendix A.

OBJECTIVE 2: Budgets and forecasts are prepared and based on contracts and expected income.

In June 2019, the then Interim Healthcare Contracting Consultant presented a paper to the Finance Committee highlighting the significant shortcomings of LTA and SLA contracts and the actions needed to develop and implement a robust contract management strategy and framework.

Since July 2019, a monthly presentation reporting the key aspects of LTAs including budgets, forecasting, monitoring and other key issues has been introduced and forms part of the Finance Committee meeting. Concluding a testing on a sample of LTAs, we identified five (with values ranging from £4m to £29m) that had been approved by an authorised signatory above their financial limit.

During our fieldwork, we also noted a number of SLA contracts (totalling approximately £2m) that were operating without the required review or governance arrangements, including:

- The lack of financial forecasting, covering both initial and future;
- The lack of monitoring and budgeting; and

The audit testing also identified a number of both LTA and SLA contracts were not fully signed or completed.

See Findings 1, 2, 3, & 9 in Appendix A.

OBJECTIVE 3: There is effective management control over contract performance.

During the latter part of 2019, the Contracts Manager initiated a project to create a centralised register to capture all active contracts within the Health Board. Progress to date has resulted in a detailed register maintained on the SharePoint portal.

There are currently 655 known contracts noted on the contracts register of which 345 relate to Continuing Healthcare (CHC), 23 relate to LTAs and the remaining 287 contracts consist of various other types of contracts such as SLAs and other procurement contracts.

Whilst we acknowledge the progress made by the Contracts Manager in producing a central contracts register, further improvement and additional focus is still required. A review of the contracts register and a sample of contracts identified:

- Incompleteness of the contracts register;
- Lack of evidence of a formalised review of contract extensions;
- Lack of evidence of acceptance of contract terms and conditions; and
- Lack of evidence of ownership of the contracts.

See Findings 4, 7 & 8 in Appendix A.

OBJECTIVE 4: There are appropriate reporting arrangements in place to ensure contract management issues and performance are reported through to the Health Board.

Reviews of LTA contract performance are undertaken each month, with the findings, key issues together with any existing or expected overspends presented to the Finance Committee. Furthermore, the monthly presentation forms part of the bi-monthly Health Board meeting.

Our testing identified that the sample of SLA contracts (totalling approximately £2m+) were not subject to a similar review or monitoring process, and as such, issues were not being identified, reported or addressed.

See Finding 5 in Appendix A.

7. Summary of Recommendations

The audit findings and 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	4	5	0	9

<p>Finding 1 – Forecasting (O)</p>	<p>Risk</p>
<p>Of the nine SLAs tested, it was identified that for eight of the selected sample SLAs, totalling approximately £2m, information was not available to support any future forecasting being undertaken.</p>	<p>Contracts are put in place that do not meet the needs of the Health Board or service users.</p>
<p>Recommendation 1</p>	<p>Priority level</p>
<p>Forecasting should be undertaken for each contract by the Finance Business Partners as the identified (Finance) Contract Leads to ensure the financial needs of the Health Board are met.</p>	<p style="text-align: center;">HIGH</p>
<p>Management Response</p>	<p>Responsible Officer/ Deadline</p>
<p>The Contracting Team will work closely with Finance Business Partners to support this work. As this recommendation is accepted, the contracting team have identified a resource to undertake this work with Business Partners moving forward.</p>	<p>Assistant Director of Value Based Contracting 31st January 2021</p>
<p>Finding 2 – Monitoring and Budgeting (O)</p>	<p>Risk</p>
<p>A review of the 15 sample items identified eight SLA contracts (totalling approximately £2m+) where no evidence was provided to support monthly contract monitoring and budget reviews.</p>	<p>Contracts are put in place that do not meet the needs of the Health Board or service users.</p>

Recommendation 2	Priority level
SLA Contract monitoring and budget reviews of services both provided and accessed, need to be undertaken by management to ensure the standards of service meet the requirements of the Health Board.	HIGH
Management Response	Responsible Officer/ Deadline
The Contracting Team have identified a full time resource to support this work.	Assistant Director of Value Based Contracting 30 th November 2020

Finding 3 – Authorised Signatories and Limits (O)	Risk
The Health Board Scheme of Delegation states that all contracts of the value £2m+ must be authorised by the Health Board. We identified five LTA contracts with values ranging from £4m to £29m that had been signed by the Director of Finance. However, no evidence of Health Board approval was evident.	Contracts are put in place that do not meet the needs of the Health Board or service users.
Recommendation 3	Priority level

<p>Management need to ensure that LTA contracts are signed by the appropriate authorised signatory, in accordance with the agreed Health Board Scheme of Delegation.</p>	<p style="text-align: center;">HIGH</p>
<p>Management Response</p>	<p>Responsible Officer/ Deadline</p>
<p>All LTAs will now follow the scheme of delegation, with all contracts over £10m being reported to the Board following CEO approval, and those below £10m being reported for information.</p>	<p>Assistant Director of Value Based Contracting 31st July 2020</p>
<p>Finding 4 – Terms and Conditions (O)</p>	<p>Risk</p>
<p>The stipulations of each contract makes reference to several requirements and penalties, including an annual review, quality and performance reviews. As part of our testing, no evidence was provided to support the undertaking of these reviews for nine SLAs of the 15 selected sample items.</p>	<p>Services are not delivered within budget, to the required level and/or quality.</p>
<p>Recommendation 4</p>	<p>Priority level</p>
<p>Management should ensure that the terms and conditions set out in SLA contracts are adhered to at all times.</p>	<p style="text-align: center;">HIGH</p>
<p>Management Response</p>	<p>Responsible Officer/ Deadline</p>

<p>All contract meetings involving the contracts team will be documented moving forward. These will of course include any actions arising. This will demonstrate the requisite compliance around roles and responsibilities as set out in the contact.</p>	<p>Assistant Director of Value Based Contracting 30th June 2020</p>
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Finding 5 – Reporting of Issues (D)	Risk
<p>For the selected sample of 15 contracts, any issues arising for the six LTA sample items are reported via the monthly Finance Committee meeting. However, with regards to the remaining sample of nine SLAs, no evidence was provided to support the identification, escalation or addressing of issues arising.</p>	<p>Services are not delivered within budget, to the required level and/or quality.</p>
Recommendation 5	Priority level
<p>Management should ensure where SLA contract issues arise they are reviewed and reported to directorate and/or service management.</p>	<p>MEDIUM</p>
Management Response	Responsible Officer/ Deadline
<p>This recommendation is accepted, and a process will be put in place to ensure that review requirements are highlighted to directorates.</p>	<p>Assistant Director of Value Based Contracting 31st October 2020</p>

<p>Finding 6 – Standard Operating Procedures (O)</p>	<p>Risk</p>
<p>There are no policies or standard operating procedures in place to support the process of contract formulisation and acceptance.</p>	<p>Contracts are put in place that do not meet the needs of the Health Board or service users.</p>
<p>Recommendation 6</p>	<p>Priority level</p>
<p>To ensure a consistent approach is being undertaken in the establishment of contracts, management should ensure standard operating procedures are developed and implemented immediately.</p>	<p>MEDIUM</p>
<p>Management Response</p>	<p>Responsible Officer/ Deadline</p>
<p>This work is being undertaken at present, we are expecting to have all Standard Operating Procedures in place by September.</p>	<p>Assistant Director of Value Based Contracting 30th November 2020</p>
<p>Finding 7 – Contracts Register (D)</p>	<p>Risk</p>
<p>The review of the contract register noted of the 655 contracts listed only 78 contracts have been located and uploaded onto the register. In addition, we also noted a missing and inaccurate information listed in the register.</p>	<p>Services are not delivered within budget, to the required level and/or quality.</p>

<p>Testing identified that for six SLAs of the 15 selected sample items, the information noted on the contracts register was incorrect. It was evident from the review that there is a lack of ownership and engagement from identified contract leads for SLAs.</p>	
<p>Recommendation 7</p>	<p>Priority level</p>
<p>Contract leads should ensure a copy of all contracts are submitted to the Contracts Team and uploaded onto the contracts register.</p>	<p>MEDIUM</p>
<p>Management Response</p>	<p>Responsible Officer/ Deadline</p>
<p>This recommendation is accepted. The contracts team will work with contract leads and the Operational Directorates to get copies of the contracts.</p>	<p>Assistant Director of Value Based Contracting 31st December 2020</p>

<p>Finding 8 – Contract Extensions (O)</p>	<p>Risk</p>
<p>Of the 15 sample items, three SLAs were identified where no evidence of a contract extension was provided or the contract extension documentation was completed a number of months after the expiry date of the initial contract.</p>	<p>Services are not delivered within budget, to the required level and/or quality.</p>
<p>Recommendation 8</p>	<p>Priority level</p>


<p>Management should ensure that reviews in relation to the extension of SLA contracts should be fully documented and authorised by appropriate individuals.</p>	<p>MEDIUM</p>
<p>Management Response</p>	<p>Responsible Officer/ Deadline</p>
<p>This will form part of the work being undertaken by the contracts team working with the Operational Directorates and Business Partners. There will be a value based framework drafted to support either:</p> <ol style="list-style-type: none"> 1. The on-going commissioning of said services 2. The service continues but support to change (this is to support the directorates and their needs) 3. The service no longer offers value for money and will be de-commissioned 	<p>Assistant Director of Value Based Contracting</p> <p>30th October 2020</p>


<p>Finding 9 – Contract Signings (0)</p>	<p>Risk</p>
<p>For the selected sample of 15 items, we identified a number of instances where contracts had not been fully signed or completed by the Health Board and/or the other party; whilst we noted a contract was not in place for one of the sampled items.</p>	<p>Contracts are put in place that do not meet the needs of the Health Board or service users.</p>
<p>Recommendation 9</p>	<p>Priority level</p>


<p>Management need to ensure that all agreements between the Health Board and other parties are fully signed and dated by authorised signatories prior to the commencement of the contractual period.</p>	<p>MEDIUM</p>
<p>Management Response</p>	<p>Responsible Officer/ Deadline</p>
<p>This has been remedied as part of the 20/21 contracting round between Health Boards.</p>	<p>Assistant Director of Value Based Contracting 31st July 2020</p>


Appendix B - Assurance Opinion and Action Plan Risk Rating

2019/20 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** arrangements in place to secure governance, risk management and internal control, within those areas under review, which 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.



Office details: St Brides
St David's Park
Carmarthen
Carmarthenshire
SA31 3HB

Contact details: 01267 239785 - james.johns@wales.nhs.uk