

Management of Fire Enforcement Notices

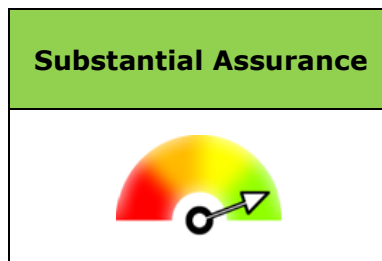
Final Internal Audit Report

2020/21

Hywel Dda University Health Board

NHS Wales Shared Services Partnership

Audit and Assurance Services



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Auditor/s:	NWSSP: Audit & Assurance - Specialist Services Unit
Executive sign off:	Andrew Carruthers, Director of Operations
Distribution:	<ul style="list-style-type: none">○ Rob Elliot, Director of Estates, Facilities & Capital Management○ Paul Evans, Assistant Head of Operational Facilities Management○ Gareth Lloyd, Head of Fire Safety Management○ Jason Wood, Major Capital Development Manager○ Joanne Wilson, Board Secretary
Committee:	Audit & Risk Assurance Committee

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

The audit forms a part of the approved 2020/21 internal audit plan.

The Mid & West Wales Fire & Rescue Service (MWWFRS), as part of their normal routine inspections, visited Withybush General Hospital (WGH) in July 2019, and Glangwili General Hospital (GGH) in February 2020, to undertake fire safety inspections.

Resulting from these inspections, Fire Enforcement Notices and Letters of Fire Safety were issued for the WGH site, and a single Fire Enforcement Notice for the GGH site. The Notices and Letters included multiple actions, which required completion within specific timeframes.

The focus of this audit was limited to an assessment of the actions being taken by the UHB to address the Fire Enforcement Notices and Letters of Fire Safety specifically at WGH (noting this is the further progressed of the two programmes).

A Programme Business Case (PBC) to address the issues at WGH was submitted to the Welsh Government (WG) in March 2020 and was subsequently endorsed in August 2020, to be followed by separate Business Justification Cases (BJCs) for the associated Phases 1 & 2.

At the time of the audit, a number of early actions had already been addressed with funding from the University Health Board's (UHB) Discretionary Capital Programme and advanced funding of £350k from WG (addressing vertical escape routes).

At the date of reporting, the BJC for Phase 1, to address horizontal escape routes, was in development, with works forecast for completion by April 2022. Phase 2, involving occupied areas, is forecast for completion by April 2025.

Delays to the original timeline have been experienced in the endorsement of the PBC by WG, and the appointment of the Supply Chain Partner. However, revised dates had been accepted by the MWWFRS and factored into updated Enforcement Notices.

Noting the impact of Covid-19, the delivery of this assignment has involved an increased element of remote working. Any limitations to the audit fieldwork as a consequence of the Covid-19 restrictions are clearly outlined at the report.

2. Scope and Objectives

The review was undertaken to determine the adequacy of, and operational compliance with, the UHB's systems and procedures, taking account of relevant NHS and other supporting regulatory and procedural requirements, as appropriate.

The audit evaluated the systems and controls in place within the UHB with a view to delivering assurance to the Audit & Risk Assurance Committee that risks material to the objectives of the areas covered were appropriately managed.

Accordingly, the scope and remit of this audit was limited to the following areas:

- **Governance and reporting**
 - executive leadership is demonstrated for fire safety;
 - evidence of integrated governance arrangements between the project and existing fire safety management arrangements; and
 - evidence that Fire Notices and warnings are appropriately escalated, reported and monitored in accordance with procedures and regulations.
- **Strategy**
 - evidence that the UHB has an approved strategy to manage Fire Safety (including emerging issues at WGH and their implication on the wider UHB estate);
 - the business case has been approved and clearly outlines the expected objectives;
 - fire risks have been formally identified and risk assessed; and
 - resulting plans/ programmes are risk based.
- **Performance and local implementation**
 - a review of the status of notices and warnings;
 - an assessment of the current performance against the implementation programme agreed with the MWWFRS;
 - an assessment of the cost management of the works to date; and
 - a review of any emerging risks as a result of the works and how these are managed.

3. Associated Risks

The potential risks considered in the review were as follows:

- Risk to life of patients and staff in the event of a fire;
- Breach of regulations;
- Non-compliance with Enforcement Notices;
- Prosecution / financial penalties;

- Financial pressure on UHB budgets;
- Adverse publicity;
- Project time, cost and/or quality are adversely affected.

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.

Robust controls were evidenced in all key areas at this review, including:

- Clear executive leadership for fire safety matters;
- Sound governance and reporting arrangements for fire safety and the delivery of the required programme of works, both within the project and via the wider UHB governance structure;
- A clear strategy for delivery of the required works, agreed by the WG and MWWFRS;
- Appropriate risk assessment, management and reporting processes in operation; and
- Delivery of the agreed programme to the (revised) timescales at the time of reporting.


Emerging risks, primarily in terms of the cost of Phase 1 delivery and management of the risk/contingency approach, were being assessed in conjunction with NWSSP: Specialist Estates Services, in readiness for submission of BJC1 to WG.

A small number of recommendations have been raised for management attention (see **Appendix A**).

Recognising the commitment made by the UHB in responding to the Enforcement Notices to date, and the agreement from WG and MWWFRS to the timelines for addressing the issues raised, **substantial assurance** has been determined. This assurance rating recognises the work now required to address and close the Enforcement Notices.

This assurance rating does not incorporate an assessment of the level of fire safety risk currently within the UHB, which, as reflected in the receipt of multiple Enforcement Notices, will remain high until the programme of works has been delivered. It is also recognised that wider audit coverage of the project is proposed through the development of Integrated Audit Plans for





2021/22 onwards. These will be incorporated within the respective Business Justification Cases (see **Appendix B**).

RATING	INDICATOR	DEFINITION
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.

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	Governance & Reporting				✓
2	Strategy				✓
3	Performance & Local Implementation			✓	

** 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 **no** issues that were classified as weaknesses in the system control/design for fire safety.

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 fire safety.

6. Summary of Audit Findings

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

Governance & Reporting



That executive leadership is demonstrated, there are integrated governance arrangements operating between the project and existing fire management, and that ENs/Letters have been appropriately escalated and monitored.

The Director of Operations is the appointed Designated Person for Fire Safety within the UHB; however, it was noted that the Fire Safety Policy does not reflect the current responsible officer (**recommendation 1**).

There was a clear and coordinated governance structure in place for fire safety matters, including the management of the Enforcement Notices (ENs). This included:

- Overarching oversight and scrutiny of fire safety governance (including management of the ENs) at Board level by the Health & Safety Assurance Committee (HSAC) ;
- Oversight and scrutiny of capital expenditure and project delivery by the Capital, Estates and Information Management & Technology Sub-Committee (CEIM&T);
- Early reporting of the ENs to the Health & Safety Sub-Committee (recognising the HSAC was only in place from May 2020);
- Statutory compliance oversight by the Fire Safety Group (FSG);
- Management of the delivery of early discretionary capital and advanced works actions by the 'fire-safety enforcement control group,' following initial receipt of the ENs (note: the group is now disbanded but appropriate reporting has been maintained through the remaining governance structure); and
- Capital project delivery by the Project Board and associated project governance structure (delivery team etc.). It was noted however that terms of reference had not been prepared for the Project Board (**recommendation 2**).

Recognising the number of forums involved, and to ensure completeness of reporting, the updates prepared for the HSAC were disseminated for information to the other relevant forums noted above.

Updates have been reported in a timely and consistent manner from initial receipt of the ENs, incorporating information in relation to the timeline of delivery, including slippage (and its impact on the UHB's response to the ENs), enabling effective scrutiny and direction of subsequent actions.

At the time of reporting the BJC was in development and the assurance provision for the programme of works had not been determined. The UHB are working with Audit & Assurance Services to agree appropriate narrative associated with the independent assurance mechanisms for inclusion (see **Appendix B**).

Recognising the strength of governance arrangements operating, **substantial assurance** has been determined in this area.

Strategy



That the UHB has an approved strategy to manage fire safety; business case objectives have been clearly outlined and approved and that fire risks have been assessed and resulting programmes are risk based.

The UHB's strategy for addressing the requirements of the ENs was set out in its Fire Precaution Works Programme Business Case.

The UHB's overarching fire safety risk is included on the Corporate Risk Register (current risk score of 15 [red]), ensuring sufficient focus at Board/Committee level, with additional reporting of fire-related risks and mitigating actions to the Fire Safety Group observed.

Fire risks continue to be assessed via the all-Wales Fire Risk Assessment (FRA) process (monitored centrally by NWSSP:SES), with management confirming that FRAs will be revisited and closed as actions associated with the above programme of works are concluded. The UHB has recently reported a positive position regarding its management of FRAs, with a minimal number requiring updating at the time of the audit.

The NWSSP: SES 'NHS Estate in Wales Fire Audit Safety Review 2020' reports that the UHB benchmarks well against the position across NHS Wales in terms of completed FRA. Further, the UHB has recently invested in a new electronic system ('Boris') to aid the management of fire risk assessments and associated actions.

The PBC set out the UHB's approach to discharging the ENs, via a programme of phased works, across the next four years. The programme involves:

- Advanced works – priority works including vertical escape routes, which were delivered ahead of the main programme, and demonstrate early progress to the MWWFRS;
- Phase 1 – including horizontal escape routes (corridors to the point of entry/exit), compartmentation between wards and high-risk rooms, and upgrading fire/smoke dampers and fire doors; and
- Phase 2 – including the occupied areas e.g. wards / departments, where complex works are required i.e. decant.

In addition to endorsement of the strategy by the WG, the UHB has secured commitment from MWWFRS to the proposed phased approach and current timeline of delivery, recognising available funding and constraints of an operational site (see **Performance & Local Implementation** below).

The WG provided early funding of £350k in August 2020 to deliver the Advanced Works, which have now concluded. Additional WG funding of £350k was also provided in December 2020 to support the development of the individual business cases. Funding for Phases 1 & 2 will be requested via detailed Business Justification Cases (BJCs), noting that BJC1 was being prepared at the time of the audit.

Substantial assurance is therefore determined in this area.

Performance & Local Implementation



An assessment of the current status of the ENs and letters, and of the performance of the programme against agreed timelines and costs; and consideration of emerging risks which may impact the works.

The UHB was operating a robust system for the monitoring of individual recommendations contained within the ENs and letters, with the 'audit and inspection' tracker reviewed and updated on a fortnightly basis, to reflect the current / agreed timeline for action:

Phase	Timeline at PBC submission	Forecast position as at February 2021
PBC submission to WG	March 2020	March 2020
PBC endorsement by WG	April 2020	August 2020
Advanced Works completion	September 2020	January 2021
Phase 1		
BJC1 submission to WG	July 2020	March 2021
Completion of works	August 2021	April 2022
Phase 2		
BJC2 submission to WG	June 2021	February 2022
Completion of works	May 2024 (TBC)	May 2024 (TBC)

There has been some slippage to date to the programme outlined in the PBC, caused by matters outside the control of the UHB:

- Delays in the endorsement of the PBC from WG, and
- Delays in securing a Supply Chain Partner via the Designed for Life Framework.

The revised timescales were communicated to and agreed with WG and MWWFRS in October 2020, and reported clearly within the UHB. MWWFRS subsequently issued updated ENs incorporating the new timescales for completion of works, aligned with the UHB's revised programme.

At the date of reporting, the UHB was on target with the BJC1 development for submission by end of March 2021. It was noted that work was ongoing to review project costs, including the approach to the management of risk and contingency, in conjunction with NWSSP: SES. Recognising the same, the programme anticipates a period of one month agreement by Welsh Government. Noting the imminent Welsh Government elections and associated restrictions arising from the pre-election period this programme may be at risk (**recommendation 3**).

Costs incurred to date have been managed through both the UHB's discretionary capital programme (DCP) and All Wales Capital Funds:

- £470k invested to date from the DCP, to fund early actions on fire safety measures across the UHB following receipt of the ENs;
- £290k forecast outturn cost (from a total funding envelope of £350k awarded by WG) to deliver the Advanced Works programme. The WG has agreed the residual monies can be invested in related fire safety works within the UHB; and
- £566k to date on fees related to the development of BJC1 (£350k funded by WG in December 2020), with the balance of £216k funded at risk by the UHB from the DCP, in lieu of WG approval of the BJC.

Allocations and expenditure have been monitored appropriately within the project and reported to the Capital Planning Group / CEIM&T Sub-Committee.

The PBC provided a high-level estimate of potential programme costs for Phase 1 of £4,110m, and £8,140m for Phase 2. As required at PBC level, these indicative costs were based on information already held by the UHB, e.g. existing surveys, and were not informed from detailed, expert analysis.

Whilst cost management will be assessed at future audits, it was noted that a detailed analysis and survey work undertaken during BJC1 development has seen Phase 1 costs increase to £10.2m (note, these costs were still undergoing review at the time of reporting). The UHB, in conjunction with NWSSP:SES, has prepared a detailed break-down of the cost changes, between PBC and BJC1, to aid WG scrutiny.

In order to mitigate the risk of insufficient contingences for issues arising mid-project and associated pressure on the UHB's DCP, if the project exceeds its allocated funding envelope, the UHB is proposing a two-tier contingency approach. This approach will provide for a standard contingency within the main allocation, with a second level of contingency to be held back by the WG (to be accessed by the UHB in the event of unforeseen issues arising mid-works). This approach also recognises the additional risk of rising costs that come with the chosen contract strategy: NEC Option E, 'cost-plus'. It is noted that this proposed approach has not yet been approved by WG.

Management have also highlighted the risk of insufficient internal project resource, both in numbers and experience, particularly with regards the more complex Phase 2 works. Whilst acknowledging additional resource is due to be appointed shortly, further consideration will need to be given to requirements before and during the development of BJC2.

Whilst recognising that the current programme timeline has been agreed by key parties (WG / MWWFRS), there is a risk that pre-election restrictions may adversely impact on delivery. Accordingly **reasonable assurance** has been determined in this area.

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	-	1	2	3

Finding 1: Governance – Executive Responsibility	Risk
<p>Appropriate executive leadership was evidenced from the Board-level Director with fire safety responsibility (Director of Operations), demonstrated through the reporting of fire safety matters, including management of the Enforcement Notices, to the Health & Safety Committee.</p> <p>It was noted, however, that in the recently approved Fire Safety Policy (December 2020), the Deputy Chief Executive is named as the Board-level Director for fire safety. These documented arrangements reflect the previous responsibilities, now amended, as above.</p> <p>The Policy therefore requires updating to reflect current operational arrangements.</p>	<p>Appropriate executive leadership is not demonstrated.</p> <p>The Board may not be adequately informed on fire safety matters.</p>
Recommendation 1	Priority level
<p>The Fire Safety Policy should be updated to reflect the current arrangements in relation to Board-level responsibility (○).</p>	<p>Low</p>
Management Response	Responsible Officer/ Deadline
<p>Agreed. The policy will be updated accordingly.</p>	<p>Director of Estates, Facilities & Capital Management May 2021</p>

Finding 2: Governance – Project Board	Risk
<p>A Fire Precautions Project Board was convened from August 2020, to provide oversight and direction in the development of business cases and delivery of the capital works.</p> <p>Whilst the Project Board was observed to be meeting with appropriate regularity and attendees, discussing matters relevant to the current stage of the project, a formal terms of reference had not been developed.</p> <p>It is recognised that, whilst some information regarding programme management arrangements were included at the Programme Business Case, updated detail will be included within the 'management case' currently being prepared for Business Justification Case 1. A formal terms of reference should be prepared alongside this.</p>	<p>Potential insufficient clarity as to the role, function and required attendees of a key project group.</p>
Recommendation 2	Priority level
<p>A terms of reference should be prepared for the Project Board, confirming responsibilities, reporting lines and membership (including quorate requirements) (O).</p>	<p>Low</p>
Management Response	Responsible Officer/ Deadline
<p>Agreed. The terms of reference will be prepared as the project enters its next phase.</p>	<p>Director of Estates, Facilities & Capital Management May 2021</p>

Finding 3: Programme delivery	Risk
<p>The revised programme delivery timescales were communicated to and agreed with WG and MWWFRS in October 2020. This revised programme confirmed the completion of all works associated with the Enforcement Notices by May 2024.</p> <p>As noted in finding 3, the BJC is currently in development and targeted for submission by the end of March 2021.</p> <p>At the date of reporting, it was noted that work was ongoing to review project costs, including the approach to the management of risk and contingency, in conjunction with NWSSP: SES. Recognising the same, the programme anticipates a period of one month agreement by Welsh Government.</p> <p>However, noting the imminent Welsh Government elections and associated restrictions arising from the pre-election period this programme may be at risk.</p> <p>It is recognised that, at the time of reporting, this was an evolving issue. Discussions and programme scrutiny are ongoing with Welsh Government and UHB Executives regarding the timeline for approval and financing of the initial stages of the planned delivery from the UHB's discretionary capital programme.</p>	<p>The Fire Enforcement Notices are not actioned within the agreed programme timeline.</p>
Recommendation 3	Priority level
<p>A paper supporting the business case outlining the UHB's approach to delivery and the associated risks and management arrangements should be presented to the Board, or an appropriate forum, for acceptance (●)</p>	<p>Medium</p>

Management Response	Responsible Officer/ Deadline
<p>Agreed. Discussions have since been held with the Welsh Government and the UHB to agree a timetable for scrutiny of the BJC [noting the pre and post-election restrictions] and internal financial arrangements for the interim period.</p> <p>A paper will be prepared for the appropriate Committee setting out the agreed arrangements.</p>	<p>Director of Estates, Facilities & Capital Management April 2021</p>

Integrated Audit Plan

The NHS Wales Infrastructure Investment Guidance (updated guidance issued by Welsh Government in October 2018) requires that all business cases include an Integrated Assurance and Approval Plan (IAAP) that sets out assurance and approval points for each stage of the project/ programme. Accordingly, Health Boards/Trusts are required to outline the various formalised assurance mechanisms proposed (e.g. internal audit, Gateway reviews, functional reviews etc.) and the timing of each. The guidance indicates that the IAAP should be used as a tracker to monitor assurance against key milestones and updated as part of each business case submission.

The Integrated Internal Audit Plans developed by NWSSP: Audit and Assurance (A&A) are drafted in compliance with the Public Sector Internal Audit Standards; with requirements developed based on a standard governance based audit assessment methodology that recognises e.g. project risks, costs, development timetable, corporate importance and political materiality etc.

The specific project/programme requirements are then developed based upon an audit-resourcing model and A&A's experience of major project/ programme audits – i.e. a straight line fee percentage of the overall project cost is therefore not considered appropriate for business case submissions.

The table on the next page is the proposed integrated audit plan for Phase 1 of the programme:

Assurance/Approval	Outline Scope	2020/21			2021/22												2022/23				
		Jan	Feb	March	April	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	July	Aug
Programme/Project Milestones																					
Approvals	Programme Business Case endorsed by WG - August 2020 Targets: Estimated Cost - £10.4m BJC submission - March 2021 Start on Site - May 2021 Completion - July 2022 (78 weeks) Project Closure - July 2023	BIC Development	BIC Submission	BIC Approval	Construction												Post Completion				
General Project Level Assurance																					
Validation of Management Action	Assurance of Management Actions																				
Governance	Defined Arrangements Programme Management Effectiveness of Operation Adequacy of Management and Control Arrangements Approvals Readiness to Proceed Adequacy and effectiveness of work streams																				
Functional Assurance																					
Financial	e.g. Approvals Budget setting Financial Monitoring/Management Use of Project Bank Accounts Cost Control Contingency Management Risk Management (and associated costs) Ongoing Cost Monitoring																				
Technical	e.g. Project Management Determination of Target Cost Validation of costs to date Calculation of Pain/Gain Adequacy of site surveys incl. Construction Environmental																				

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.