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Arrangements for Interim Senior Staff Appointments – **Betsi Cadwaladr University Health Board**

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Mae'r ddogfen hon hefyd ar gael yn Gymraeg. This document is also available in Welsh.

The team who delivered the work comprised Ian Hughes and Andrew Doughton, working under the direction of Mike Usher.

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Our review examined the process followed by Betsi Cadwaladr University Health Board in appointing five interim senior staff between February and October 2019, including the Interim Recovery Director. The significant cost of that appointment has attracted attention in the media and amongst Assembly members and our review was centred on this role.

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Summary report

What this review is about

- 1 The Auditor General advised the Public Accounts Committee on 11 November 2019 that he intended to examine the arrangements that Betsi Cadwaladr University Health Board (the Health Board) had put in place when making several interim senior staff appointments in the course of that year.
- 2 Our review has examined the following five appointments:
 - Interim Recovery Director;
 - Interim Managing Director, Wrexham Maelor;
 - Interim Managing Director, Ysbyty Glan Clwyd;
 - Head of Planned Care Improvement; and
 - Interim Director of Acute Services.
- 3 **Appendix 1** summarises the costs associated with each of these appointments, together with their contractual terms of engagement.
- 4 Given the significant costs associated with the appointment of the Interim Recovery Director and the attention that this has attracted in the media and amongst Assembly members, our review was centred on this role. The Health Board agreed to pay the agency supplying the Interim Recovery Director the rate of £1,990 per day, inclusive of a capped reimbursement of 'out-of-pocket' reasonable expenses at £100 per day. The post-holder took up this role in July 2019 and the contract is expected to end on 27 March 2020. The committed cost of the assignment over a nine-month period is £340,200.
- 5 By examining five senior interim appointments over a similar time period, we have been able to compare and contrast the processes followed and to explain the appointment of the Interim Recovery Director in a wider procurement context.

Key findings

- 6 This 'facts only' report sets out the key matters relating to the five appointments which were made by the Health Board between February and October 2019, and these are summarised as follows:
 - we found that all of the interim appointments have been made using firms listed on approved framework agreements. This is consistent with the provisions set out in the Health Board's SFIs and Procurement Guidance for Staff.
 - the Welsh Government agreed to contribute £350,000 towards the cost of the Interim Recovery Director, but played no part in the appointment itself, which was made by the Health Board before this funding had been confirmed. The decision to appoint was not dependent on securing the funding from Welsh Government.

- whilst the Health Board asserts that competitive rates were negotiated for the appointment, we found that the £1,890 daily rate being paid by the Health Board is higher than most of the benchmark comparators that were used by officials during the appointment process.
- in contrast to the other four interim appointments, the Health Board only secured verbal references before appointing the Interim Director of Recovery. However, we note that both the Health Board's (then) Chief Executive and an independent member of the interview panel had previous experience of working with the successful candidate. Also, in order to secure approval on the Framework, all suppliers must retain up-to-date references for all workers supplied.

7 The findings of this report need to be viewed in the context of the following observations set out in our Structured Assessment report issued to the Health Board in December 2019:

- it is difficult to identify the specific personal impact that the Interim Recovery Director is having on the Health Board's financial recovery efforts, given that staff across the organisation are contributing to this in various ways. There are many factors that impact on the position to include timing differences and differences in the nature of any financial savings (some are one off and others recurring).
- we have seen clear financial leadership for recovery, with delegated responsibility of financial recovery and the identification and achievement of savings. The focus by the Health Board on financial recovery, grip and control is stronger than before.
- there remains a significant risk to achieving the £35 million deficit for 2019-20 that is planned by the Health Board. The Health Board is reporting slippage against delivery of planned savings, together with aspects of in-year cost growth which have created a need to identify additional savings.
- several other factors continue to present challenges which, if unaddressed, create a risk that the annual financial cycle of 'deficit and attempted recovery' will continue to be repeated.

Detailed report

The events leading up to the appointment of the Interim Recovery Director

- 8 In June 2015, the Welsh Government placed the Health Board into 'special measures', because of a number of issues including the quality of the Health Board's governance and leadership, concerns over its mental health, maternity and GP out-of-hours services and its approach to service planning and public engagement.
- 9 On 1 February 2018, the Cabinet Secretary for Health and Social Services announced that maternity services could be de-escalated but some areas of performance needed to remain under the 'special measures' arrangements. It was recognised that the Health Board needed to strengthen leadership and governance across its three acute sites.
- 10 The Health Board introduced an internal post of Turnaround Director to secure cost savings and ongoing efficiencies. However, the internal arrangements were not effective in securing the improvements needed. Its financial deficit was increasing, and its savings plans were assessed as both simplistic and overly ambitious, with insufficient capacity to deliver the plans alongside other pressures on services. In conjunction with the Welsh Government it was decided to introduce specialist capacity to help the Health Board with its financial recovery.
- 11 The Public Accounts Committee has regularly scrutinised the Health Board's governance and performance, and in its May 2019 Report the Committee stated that:
 - 'We are unconvinced that sufficient resources are being devoted to turnaround action and although the Board has appointed a Director of Turnaround¹, we recommend the Board consider bringing in additional specialist external turnaround expertise to assist with this.'
- 12 On 19 July 2019 the (then) Chief Executive of the Health Board wrote to the Director General of the Welsh Government's Health and Social Services Group, proposing a new executive structure for his organisation and asking for Welsh Government support for a range of capacity and capability-strengthening initiatives. These new initiatives arose from work that the Health Board had recently conducted with support from PricewaterhouseCoopers (PWC).
- 13 The Health Board asked the Welsh Government to provide £350,000 additional 2019-20 funding towards the cost of engaging a Recovery Director. The Chief Executive's letter said that:
 - 'the Recovery Director (RD) needs to deliver an immediate and significant impact on our run rate and [Cost Improvement Plans] over the next two months to enable us to deliver our [2019-20 financial] control total'.

¹ A reference to an internal appointment made by the Health Board prior to the appointment of an external Interim Recovery Director in June 2019.

- 14 An appendix to the Chief Executive's letter provided further detail about the role:
- 'Following discussions with the [Welsh Government's Finance Delivery Unit] regarding a strengthening of turnaround approach and a recommendation from PWC the Health Board [had] taken steps to improve its turnaround capability by securing consultancy services from a Recovery Director. This will be for a maximum of 9 months to the end of March 2020 and is aimed at enabling us to achieve greater levels of improvement in our financial delivery and support the development of a longer-term efficiency plan.'
- 15 The Director General replied on 29 August 2019 in the following terms:
- 'I fully recognise the imperative of the work on financial recovery and the importance of ensuring strong, focussed leadership to ensure delivery. Subject to Ministerial approval, I am content in principle to agree £350,000 towards the costs in this key area. I am also supportive, in principle, of providing the resources requested for service improvement but require more detail on your methodology, how it sits with the additional support currently being received from PWC and transition arrangements to develop your in-house capability to deliver on the transformation agenda.'
- 16 Prior to this exchange of correspondence in early June 2019, PWC had provided the Health Board with the CVs of individuals who could be considered for the role of Interim Recovery Director. The Health Board shortlisted and interviewed three people for the role. Their interview panel included an independent person with relevant professional experience in this field.
- 17 The panel considered the skills and experience of each of the candidates interviewed. Of the three candidates, the successful candidate demonstrated the most appropriate skills; style and background (clinical) for the role. In addition, the other two candidates described a requirement for a 'minimum term' with any organisation they were supporting. This minimum term ranged from 18 months to two years.
- 18 The Chief Executive who chaired the interview panel authorised the decision to appoint the Interim Recovery Director, via Hunter Healthcare Resourcing Ltd, an agency listed on an NHS framework agreement. His appointment would commence on 1 July 2019 and conclude on 27 March 2020. The Director of Finance also approved the appointment and signed the agreement with Hunter Healthcare Resourcing Ltd on 17 June 2019.
- 19 The Health Board agreed to pay the agency supplying the Interim Recovery Director the rate of £1,990 per day, inclusive of a capped reimbursement of 'out-of-pocket' reasonable expenses at £100 per day.
- 20 The role of the Interim Recovery Director was set out in the agreement as being to:
- provide additional oversight of the financial run rate with a view to advising on and supporting delivery of efficiencies;
 - advise and support the development of an efficiency programme in line with the Health Board's financial position and recovery;

- support the implementation of necessary structures needed to deliver a financial efficiency programme;
 - work with the Director of Finance and Director of Workforce to ensure progress reporting is robust, with all risks or barriers escalated to the Chief Executive; and
 - advise on necessary resources that are available to ensure the delivery of the recovery programme.
- 21 The appointment was made, and the contract terms agreed by the Health Board in June 2019, in advance of both the Chief Executive's letter of 19 July to the Director General, and also the Welsh Government's confirmation on 29 August of the requested £350,000 funding allocation in principle for an Interim Recovery Director. The Health Board was not dependent on this funding in order to make the appointment since it could be financed from internal sources.
- 22 Welsh Government officials have told us that in awarding this funding it was expected that the Health Board would make the appointment in accordance with its Standing Financial Instructions (SFIs).

Compliance with the Health Board's Standing Financial Instructions

- 23 This next section looks in more detail at the process followed by the Health Board in making the five interim staff appointments. By examining five senior interim appointments over a similar time period we have been able to compare and contrast the processes followed and explain the appointment of the Interim Recovery Director in a wider procurement context.
- 24 The Health Board has clear rules on procurement as set out within its approved SFIs and Procurement Guidance for Staff. The SFIs meet the guidelines issued by Value Wales on behalf of the Welsh Government, which in turn reflect UK Government Regulations and European Union Directives. The Health Board stated in a response to an information request that all the five posts under consideration had been appointed in accordance with its SFIs².
- 25 The SFIs reference the minimum thresholds for quotes and competitive tendering. These thresholds reflect EU Directives and UK Regulatory requirements, and are summarised in the following table:

² A letter issued by the Health Board on 24 October 2019 – reference 335/19/FOI.

Table 1: the Health Board's tendering and procurement thresholds

This table sets out the way in which the Health Board has to procure goods and services within banding thresholds set out in its financial policies and procedures.

Contract Value (ex VAT)	Minimum Competition
<£5,000	At discretion of appropriate Director
£5,000 to £25,000	Three written quotations
£25,000 – OJEU threshold	Four tenders
Above OJEU threshold (currently £118,133)	Five tenders
Contracts between £500,000 and £1 million	Welsh Government Ministerial Approval for noting
Contracts above £1 million	Welsh Government Ministerial Approval required

- 26 The SFIs also state³ that the Health Board's 'competitive tendering/quotation procedures may be waived where the [Health Board] has legitimate access to a National Framework Agreement/All Wales contract or Supplies Consortium contract provided that the rules under such contract or framework agreement are adhered to'.
- 27 Framework agreements can provide a cost effective and efficient means of securing goods and services since matters such as quality assurance and maximum rates have been predetermined in advance through a collective agreement. However, there are a large number of agreements and their terms and conditions vary.
- 28 We found that all of the interim appointments have been made using firms listed on approved framework agreements. This is consistent with the provisions set out in the Health Board's SFIs and Procurement Guidance for Staff as set out in [paragraph 26](#) above.
- 29 In the case of the Interim Recovery Director, Health Board documentation confirms that the agency used, Hunter Healthcare Resourcing Ltd, is listed on an NHS framework for non-clinical temporary and fixed-term staff. However, the Health Board told us that they had:
- 'contracted with the agency [Hunter Healthcare Resourcing Ltd] on terms which are stated to be more preferential than if [it] had used the relevant NHS framework'.
- 30 The Health Board has provided information which supports its assertion to us that a preferential rate was secured through its negotiations with the Agency and in all

³ In Schedule 1, Procurement of Works, Goods and Services Supplementary Guidance.

other regards they secured the same terms as they would have done by complying fully with the terms of the framework agreement. We have not disclosed further details of the negotiations in order to maintain the legitimate commercial confidentiality of both parties.

- 31 In doing this and by holding a 'mini-competition' in line with common practice for individual agency personnel, the Health Board is satisfied it has complied with its procurement policies and procedures. Whilst we do not have any further observations to make on this aspect of the procurement process, we do set out more detail about the rates that were actually paid compared to the rates paid by other health bodies for the service of an Interim Recovery Director.

The costs of the Interim Recovery Director appointment

- 32 The Health Board agreed to pay the agency supplying the Interim Recovery Director the rate of £1,890 per day with a capped reimbursement of 'out-of-pocket' reasonable expenses paid of £100 per day for a nine-month period. Payment is in accordance with the Health Board's Expenses Policy. The committed cost of this assignment for the nine-month period is £340,200. The Welsh Government has agreed to contribute £350,000 towards those costs.
- 33 We sought to establish how the Health Board had satisfied itself, given the significant cost of procuring an Interim Recovery Director, that the contracted daily rate represented good value for money. The Health Board told us that they had:
- 'benchmarked the market rate against the other candidates' rates together with the [interview] panel's experience of previous appointments in other organisations, given that [they] all had experience of engaging Turnaround/Recovery Directors previously.'
- 34 As explained earlier, three candidates were interviewed for the role. The daily rate of one candidate was significantly higher than that of the successful candidate and the rate of the third candidate was slightly less. We are not disclosing the actual rates to maintain commercial confidentiality. The Executive Director of Workforce was also aware of other examples disclosed in the media at £1,700 a day and £3,000 a day. We have reflected the annual cost of these comparators in [Table 2](#) below.
- 35 The Interim Executive Director of Finance also said that the Health Board had also reviewed published rates for Recovery/Turnaround Directors from NHS England organisations which are included below in [Table 2](#).

Table 2: comparator English NHS body rates used by the Health Board to benchmark the cost of the Interim Recovery Director

This table shows the rates paid by some health bodies in England for interim Recovery Directors and compares these with the rate negotiated by Betsi Cadwaladr Health Board and agreed with the agency Hunter Healthcare Resourcing Ltd. We have not named the NHS England organisations on grounds of commercial confidentiality.

Comparator NHS body	Rate per month	Annualised cost
Comparator 1	£45,000	£540,000
Comparator 2	£34,000	£408,000
Comparator 3	£34,000	£408,000
Comparator 4	£30,000	£375,000
Comparator 5	£30,000	£360,000
Comparator 6	£28,000	£338,000
Comparator 7	£25,000	£300,000
Betsi Cadwaladr Local Health Board (June 2019 contract)	£37,800 (the daily rate of £1,890 based on a 20-day month)	£453,600 (the nine-month contract value is £340,200)

- 36 For comparative purposes, the nine-month budgeted cost and daily rate of the Interim Recovery Director employed by the Health Board equates to an annual cost of £453,600⁴. As shown in **Table 2**, this is a higher rate than the NHS England comparator cases provided by the Director of Finance.

Other information considered as part of our review

- 37 Intermediaries legislation applies in these circumstances where the individuals claim an 'off payroll status' for tax and National Insurance purposes. It is the employer's responsibility to ensure the legislation is correctly applied as part of their due diligence. Three of the five interim senior appointments were assessed as meeting the criteria for 'off payroll status'. The required documentation is in place for the three contracts.
- 38 At least one written reference from a recent employer was obtained for four of the five interim senior appointments reviewed as part of the audit.

⁴ £340,200/9 months x 12 months.

- 39 No written references were obtained for the Interim Recovery Director, although the Health Board told us that:
- 'verbal references were provided direct to Chair and CEO of BCUHB by PWC and by the Director of Finance at Blackpool NHS Trust to the BCUHB CEO and both [the CEO and an independent interview panel member] had previous experience of working with [the successful candidate]'; and
 - 'that in order to secure approval on the Framework, all suppliers must retain up to date references for all workers supplied'.
- 40 A Financial Conformance Report was presented to the 12 December meeting of the Health Board's Audit Committee by the Interim Executive Director of Finance. The report set out the procurement conformance of instances of employing interims during the period July to September 2019. The 11 instances of interims employed in this period included the Interim Recovery Director and the Interim Director of Acute Care.
- 41 One of the report's findings in relation to the appointment of interim staff was that:
- 'Procurement were not involved in these engagements on a timely basis and Purchase Orders were not raised in advance of the expenditure being committed.'
- 42 The conformance report highlights that retrospective purchase orders were raised for six of the 11 Interim staff whose roles commenced during quarter two of 2019-20. The Interim Recovery Director was one of the six listed as non-conformant.

Financial recovery progress at the Health Board

- 43 There are two core aspects to the interim role of the Recovery Director; the identification and securing of savings; and embedding governance arrangements that can sustain an improved position for the future.
- 44 It is difficult to identify the specific personal impact that the Interim Recovery Director is having on the Health Board's financial recovery efforts, given that staff across the organisation are contributing to this in various ways. There are many factors that impact on the position to include timing differences and differences in the nature of any financial savings (some are one off and others recurring).
- 45 However, in my December 2019 [Structured Assessment of the Health Board](#), we noted that there had been a stronger approach to financial recovery within the Health Board, compared to previous years. We have seen a clear financial leadership for recovery, with delegated responsibility of financial recovery and the identification and achievement of savings. The focus by the Health Board on financial recovery, grip and control is stronger than before.
- 46 As I noted in my Structured Assessment, there remains a significant risk to achieving the £35 million deficit for 2019-20 that is planned by the Health Board. The Health Board is reporting slippage against delivery of planned savings, together with aspects of in-year cost growth which have created a need to identify

additional savings. Several other factors continue to present challenges which, if unaddressed, create a risk that the annual financial cycle of 'deficit and attempted recovery' will continue to be repeated.

Appendix 1

Summary of the costs associated with the five senior appointments reviewed together with their contractual terms of engagement

Table 3: summary of costs and contractual terms of engagement

Job title	Interim Recovery Director	Interim Managing Director Wrexham Maelor	Interim Managing Director Ysbyty Glan Clwyd	Head of Planned Care Improvement	Interim Director of Acute Services
Initial Appointment Date ⁵	1 July 2019	25 February 2019	24 April 2019	15 April 2019	2 September 2019
Length of contract	Nine months	Three months, extended for another six months	Six months	27 weeks, extended for another nine weeks	31 weeks but ended after eight weeks
Full/Part Time Status	Full Time	Full Time	Full Time	Full Time	Full Time
Contracted supplier	Hunter Healthcare Resourcing Ltd	Melber Flinn Ltd	Melber Flinn Ltd	Tricordant Ltd	Xylem Resourcing Partners

⁵ Contracts renewed on at least one occasion resulting in multiple Purchase Orders

Job title	Interim Recovery Director	Interim Managing Director Wrexham Maelor	Interim Managing Director Ysbyty Glan Clwyd	Head of Planned Care Improvement	Interim Director of Acute Services
Contracted supplier on an approved framework?	'Contracted with the agency on terms which are stated to be more preferential than if the Health Board had used the relevant NHS framework.' But supplier is on Framework CCS RM6160.	RM971 for Non-Medical Non-Clinical (NMNC) ⁶	RM971 for Non-Medical Non-Clinical (NMNC)	Health Board stated that the supplier was Tricordant Ltd which is on the Health Trust Europe Framework (HTEF) ⁷	'Contract would be arranged through their partner consultancy Tricordant Ltd who are on the Health Trust Europe Framework.'
Daily Rate Paid to Supplier	£1,890 (accommodation expenses capped at £100 per day)	£1,000	£1,118	£715	£1,380 (inclusive of all fees and expenses)

⁶ This framework has since expired and has been replaced with RM6160 wef 1 July 2019. Melber Flinn are listed on this framework.

⁷ Tricordant Ltd are listed on a number of Framework contracts to include HTEF.

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