

# Care Home Commissioning for Older People

Report of the Auditor General for Wales

December 2021



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This document is also available in Welsh.

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# Summary report

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Current arrangements for commissioning older people's care-home placements are not resolving some long-standing issues; the Welsh Government must assure itself that proposed policy reforms go far enough

## About this report

- 1 We have recently completed a review of the commissioning of care-home placements for older people in North Wales. Our work involved a range of commissioning partners but focused primarily on the six local authorities<sup>1</sup> and Betsi Cadwaladr University Health Board. We have prepared a detailed report for these organisations to help drive improvement specifically in North Wales: Commissioning Older People's Care Home Placements – North Wales Councils and Betsi Cadwaladr University Health Board. Our review enabled us to consider in more detail, across the region, issues raised in previous audit work on social services budgetary pressures in two of the local authorities<sup>2</sup>.
- 2 We have prepared this short report to draw out from our work in North Wales some issues of wider national significance and to make recommendations for the Welsh Government to consider. Our aim is to highlight challenges that should be considered as part of planned policy reform and to secure meaningful change and better outcomes for people across Wales. The report is rooted in evidence from our work in North Wales, but we have also drawn on our wider audit intelligence such as from our all-Wales review of the Integrated Care Fund in July 2019 and publicly available data on spending and activity.

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1 The councils involved are Isle of Anglesey, Conwy, Denbighshire, Flintshire, Gwynedd and Wrexham.

2 In 2020, we reported on social services budgetary pressures in Conwy County Borough Council and Denbighshire County Council.

## Across Wales, the costs of care-home commissioning for older people run into several hundreds of millions of pounds each year and many thousands of people are affected

- 3 Care-home commissioning is the result of assessing population need, planning, shaping, procuring, and sometimes providing care-home services. It involves monitoring and managing service quality. It should be undertaken with the aim of delivering sufficient good-quality care-home capacity to meet current and expected future need. It should focus on value for the taxpayer and outcomes for service users. It is much more than the spot purchasing of care-home placements.
- 4 The public funds involved with care-home commissioning flow from local-authority and health-board budgets. Care-home commissioning also draws on large parts of individuals' life savings. At a high level, responsibility for care-home fees is straightforward:
  - a person can choose to move to a care home at their own expense;
  - if a person has continuing healthcare needs, then the health board is responsible for meeting the full costs;
  - if a person has social care needs only, the local authority is responsible for meeting these costs, but the service user will be assessed to determine how much they should pay towards their care; and
  - if a person has a combination of health and care needs then the council and health board will share the costs.

Complexity can arise when health boards and local authorities need to agree on eligibility for funding.

- 5 **Exhibit 1** provides some key facts and figures relevant to care-home commissioning across Wales. The figures are for different years depending on the latest available published data, as at the end of June 2021. We have reported 2019-20 costs for health boards for the purpose of comparison with local authorities. **Appendix 1** includes an additional breakdown of certain costs for individual local authorities and health boards relative to their populations. The data used in this report is the latest information available from before the pandemic; to use more recent data would not reflect normal activity levels.

## Exhibit 1: some key facts relevant to care-home commissioning

### 6.24 million days

Total number of days adults aged 65 or over were supported in residential care homes in 2018-19 (StatsWales)



### £297 million

Local authority spending on nursing and residential placements aged 65 and over in Wales in 2019-20 (StatsWales)



### 16,144

Aged over-65 receiving adult care-home services from local authorities in 2018-19.

Of these, 5,534 are also receiving nursing services.

### Latest data indicates:

**677** care homes in Wales

**263** of these provide nursing care

**96** Welsh local-authority-run care homes

**22,706** care-home beds in Wales (CMA 2017)

**25,500** residential care staff

### £415 million

Health Board continuing healthcare and funded nursing-care costs in 2019-20 (Annual Accounts)



### 833 days

Average period that adults over 65 were supported in residential care homes as recorded in 2018-19 (StatsWales)

#### Sources:

- [Social Care Wales – workforce profile 2018](#)
- [The future of care in Wales, Wales Fiscal Analysis](#)
- Health Board Annual Accounts. The majority but not all continuing healthcare costs relate to care-home placements
- Competitions and Market Authority (CMA) – [Care-homes market study 2017](#)
- [StatsWales](#)

## The Welsh Government expects local authorities and health boards to collaborate effectively as they deliver their care-home commissioning duties

- 6 The Social Services and Well-being (Wales) Act 2014 (SSWB Act) came into force on 6 April 2016. The Act provides the legal framework for improving the wellbeing of people who need care and support and for transforming social services in Wales. It includes some key requirements around care-home commissioning. The SSWB Act requires local authorities and health boards to work together to assess the care and support needs of the population in their area<sup>3</sup>. Local authorities and health boards were required to publish their first combined population assessments as required by April 2017. Thereafter, local authorities and local health boards are required to prepare one combined population assessment report per local government electoral cycle.
- 7 As well as existing specific public-sector equality duties<sup>4</sup> for public authorities in Wales, the socio-economic duty which commenced on 30 March 2021 in Wales places a legal responsibility on relevant bodies. These include certain local authorities and local health boards<sup>5</sup>, when they are taking ‘strategic decisions’ to have due regard to the need to reduce the inequalities of outcome resulting from socio-economic disadvantage. Welsh Government guidance states strategic decisions are those which help a relevant body fulfil its intended statutory purpose. There is not an exhaustive list of decisions that will engage the duty, although examples include strategic policy development, major commissioning decisions such as those for care home commissioning and the setting of well-being objectives<sup>6</sup>.
- 8 The SSWB Act requires local authorities to undertake market stability reviews but did not set a commencement date for these. Regulations introduced in April 2021 have set specific requirements to publish the stability report by 1 June 2022, six years after the Act came into force. Therefore, the impact of these requirements on the care-home commissioning for older people remains to be seen.

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3 Code of Practice in relation to measuring social services performance issued under section 145 of the Social Services and Well-being (Wales) Act 2014

4 The Public Sector Equality Duty Section 149 of the Equality Act 2010; The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011

5 Section 2(6) of the Equality Act 2010; The Equality Act (Authorities subject to the Socio-economic Inequality Duty) (Wales) Regulations 2021, relevant bodies include Local Health Boards and a County Council or County Borough Council

6 Welsh Government Guidance – A More Equal Wales – The Socio-economic Duty Equality Act 2010

- 9 The SSWB Act Statutory Guidance relating to partnerships arrangements<sup>7</sup> states that local health boards and local authorities should in relation to care homes undertake a population needs assessment and market analysis to incorporate the needs of self-funders. They should also agree an appropriate integrated regional market position statement and regional commissioning strategy. These should specify the outcomes required of care homes, including the range of services required, and consensus on the methods of commissioning. In addition, the guidance states that local authorities and health boards should:
- agree a common contract and specification.
  - agree common contract monitoring criteria and processes that include service user feedback.
  - develop an integrated approach to agreeing fees with providers.
  - develop an integrated approach to quality assurance.
  - adopt a transparent use of resources. Budgets must be aligned with overall expenditure identified, together with the financial commitments of both agencies to the commissioning of care homes. These arrangements will need to be subject to a written agreement.
- 10 The Well-being of Future Generations (Wales) Act 2015 requires bodies covered by the Act – including health boards and local authorities – to work differently. They must show they are applying the sustainable development principle. This includes balancing short and long-term needs, considering how their objectives integrate with other partners, working in collaboration, involving stakeholders, and seeking preventative approaches. As mentioned above, when carrying out existing duties which could be strategic, such as the setting of well-being objectives, relevant bodies are also now required to demonstrate paying due regard to the socio-economic duty in their decision making.
- 11 In our recent regional report on Commissioning Older People’s Care Home Placements, we recommended that North Wales Councils and Betsi Cadwaladr University Health Board review their commissioning arrangements for care-home placements to ensure they fulfil their statutory responsibilities around the Welsh language, and the Well-being of Future Generations Act in particular.

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7 Welsh Government ‘Social Services and Well-being (Wales) Act 2014’ Codes and guidance: Part 9 Statutory Guidance (Partnership Arrangements) Issued under Section 169 of the Social Services and Well-being (Wales) Act 2014

## The Auditor General has raised concerns previously with the Welsh Government about whether regional pooled funds in relation to care homes for older people are delivering value for money

- 12 Our July 2019 report on the Welsh Government's Integrated Care Fund noted that before the SSWB Act and the introduction of the fund in 2014, health and social care partnerships had explored the potential to pool funds to develop integrated services. However, there had been only a handful of practical examples and the willingness of key public bodies to release funds into joint arrangements was a key barrier.
- 13 The SSWB Act led to statutory Regional Partnership Boards (RPBs) being established and with an expectation that they would develop pooled funds. Our report on the Integrated Care Fund noted that pooled funds for the commissioning of adult care-home provision had been in place across Wales since April 2018. The report reflected the view of Welsh Government officials that the maturing of partnership arrangements because of the Integrated Care Fund had provided a solid basis for taking pooled funding arrangements forward. However, it also found that there was little evidence of successful projects being mainstreamed and funded as part of public bodies' core service delivery.
- 14 In September 2020, the Auditor General wrote to the Welsh Government and copied the letter to all local-authority and health-board chief executives in Wales, raising concerns about regional pooled funds in relation to care homes for older people. These concerns emerged from audit work at two of the local authorities in North Wales earlier that year (**paragraph 1**). We had found that while funding from the relevant organisations was initially deposited into a pooled fund administered by Denbighshire County Council, each contributor got their funding returned to them 24 hours later.
- 15 Our findings raised some significant concerns around the practical application of pooled budgets for care-home provision in North Wales, and potentially more widely in Wales. While we had not tested the arrangements in other regions, we believed that they were of a similar nature. From speaking to Welsh Government officials at the time, we understood that the arrangement in North Wales met the minimal technical requirements under the SSWB Act. However, we concluded that the arrangement neither offered value for money, nor any of the intended wider benefits of a pooled fund. Welsh Government officials also emphasised to us that they did not regard this type of arrangement as a satisfactory response to the policy intention of enabling closer co-operation between care-home commissioners to benefit care and support recipients.

- 16 In response to the Auditor General's letter, he was informed that the [then] Deputy Minister for Health and Social Services had already discussed these matters with RPB chairs and had challenged regional partners to step up delivery.
- 17 In November 2020, the Welsh Government published a Pooled Budgets Evaluation Framework report (the Framework). The Welsh Government had commissioned the report to assess the progress each of the seven RPBs had made in developing pooled funds. The review focused on the use of pooled budgets relating to care-home accommodation for older people (aged 65 or over).
- 18 The review concluded that RPBs were predominantly meeting the minimum requirement in relation to the pooled funds for care homes for older people, but many RPBs did not physically pool the budgets or share risks for care homes for older people. Only two of the seven regions in Wales physically pool funds for older people's care homes, and most RPBs highlighted care homes for older people as a challenging first area to pool funds, under the legislation which demonstrates different levels of maturity across the RPBs. Some of the key challenges that were highlighted in the Framework were around managing a diverse cohort of need across localities as opposed to specialist services, which they deemed to be more suited to a pooled-fund approach, and the risk of cross-subsidisation across local-authority boundaries.
- 19 We found through our regional work in North Wales that the response to the Deputy Minister by the North Wales RPB provided no assurance that partners intended to act in the short term to address the Auditor General's concern. The response indicated that the RPB did not intend to make any changes to its pooled-budget arrangements until the Welsh Government had progressed further its White Paper proposals on Rebalancing care and support. We understand that the RPB is in ongoing dialogue with the Welsh Government on the best way to implement the Act more broadly, and not just in relation to pooled funds.
- 20 In 2020-21, we have seen many examples of partners effectively coming together in incredibly complex and challenging environments. For example, to develop the new COVID-19 test, trace and protect, and vaccination services. Goodwill and commitment of partners have led to improvement.
- 21 This, and some of our earlier work on the Integrated Care Fund, suggests that where partners come together to jointly manage additional funding, they have had some success but when they come together to share their own core resources, they have had much less success. Although the Welsh Government has directed local authorities and health boards to work collaboratively and pool funds for older people's care homes, progress is limited with little if any benefit seen by the service user.

## **Our work on commissioning older people's care-home placements across North Wales identified some fundamental issues that are likely to be reflected throughout Wales to some degree**

- 22 Based on the findings from our previous Integrated Care Fund review and the Welsh Government's Pooled Budgets Evaluation Framework report, we anticipate that the findings from our North Wales review will be reflected throughout Wales to some degree. In our most recent work in North Wales, we concluded that **partners are working individually and collectively to provide care home placements for vulnerable service users; this is made more difficult by complex national processes, resulting in a significant focus on costs, which causes division amongst partners and has the potential to impact adversely on service users and their families. Strengthening accountability and developing a regional strategy and delivery plan has the potential to drive positive change and better partnership working, especially in relation to complex and more specialist care.**
- 23 While there is room for improvement in North Wales, where regional partners are responsible for the way that national legislation, frameworks and policy are implemented, some of the underpinning issues arise because of long-standing national legislative frameworks and policy and funding arrangements.

- 24 The findings from our regional work and our additional all-Wales analysis are summarised as follows:
- **Access to care homes by older people is complex and hard to navigate.** Commissioners are aware of the impact on service users but have not been able to simplify the process; the overall policy and guidance is set out by the Welsh Government.
  - **Public-sector funding approaches for different aspects of care can create division among partners.** Care-home placements are costly which can encourage an overemphasis on cost; while the implementation of the approach at a local level can increase tensions, the basis of the funding responsibilities is set out by the Welsh Government.
  - **The intended benefits and actual achievement have not been quantified.** Performance information collected and reported relating to health and social-care commissioning is fragmented across sectors and does not provide a good indicator of whether policy aims are being achieved, well-being goals delivered and there is no evidence of changes to service-user outcomes. Welsh Government officials and the Deputy Minister for Social Services meet RPB chairs and partners regularly to assess progress in implementing national policy but neither the Welsh Government nor regional partners have developed a performance framework to assess outcomes.
  - **Minimum technical compliance with the pooled-fund requirement fails to deliver any tangible benefit.** To comply with the law without achieving any benefits from the arrangement is a poor use of public money and poor value for money. The Welsh Government is aware of the overall progress in the implementation of pooled fund arrangements for older people's care home placements. It has developed a tool kit launched through the Association of Directors of Social Services Cymru to help tackle the challenges. However, this has had little impact and pooled fund arrangements are in general not being strengthened while the rebalancing care and support white paper is developed.
  - **The governance and operation of RPBs is maturing but, in line with legislation, structures are extensive and complex, and there are still issues about their accountability.** Following our Integrated Care Fund work, RPBs were expected (in line with [2020-21 ICF Guidance](#)) to have been putting in place arrangements to support effective scrutiny of their decisions. In addition, our work in North Wales has challenged governance and accountability more widely. The Welsh Government has a role in setting out how they should be held to account and to hold them to account for delivering on Welsh Government policy. However, RPB partners also have a responsibility to ensure suitable scrutiny and approval of key agreements takes place using their own organisations' governance arrangements.

- **There is inexplicable variation in expenditure on residential care and continuing healthcare costs, suggesting inequitable application of policy across Wales.** Factors such as local decision making and availability of preventative services to support people to live in the community will affect local spending on care-home placements. **Appendix 1** shows these variations in more detail.
- **The charging cap on service user contributions is different for care-home placements compared to people supported in the community.** This provides a potential perverse incentive for commissioners to place a person in a care home, or for a person to choose to remain at home, as many would prefer.

25 While most local-authority and health-board officers we spoke to during our North Wales review were able to describe the problems from their experiences, none felt able to have any influence or impact on the scale of changes needed within the national policy framework. As a result, they collectively accepted the need to make the best of the current situation and hope for change.

### **There is a timely opportunity for the Welsh Government to ensure planned reform resolves some of the long-standing and challenging issues around care-home commissioning and integrated care**

- 26 In April 2021, the Welsh Government completed the consultation on its white paper Rebalancing care and support (**paragraph 20**). The white paper proposed a national framework, regional organisation and more powers for the RPBs. We responded to the Welsh Government as part of its consultation, drawing on relevant evidence from our audit work.
- 27 The issues highlighted from our most recent work on care-home commissioning in North Wales indicate that current legislation and policy are not having the desired positive effect. However, they also point to some practical issues and cultural reluctance that might question whether the proposals in the white paper go far enough to address these fundamental issues. At the heart of our findings, discrete and separate budgetary responsibilities and accountabilities create division, result in a focus on cost, require complex pathways to navigate and can have a negative impact on the wellbeing of service users and their families. We acknowledge that the Welsh Government is proposing reform to the foundation of legislation and policy that causes these issues, but it needs to assure itself that the changes go far enough to resolve them.

- 28 The pandemic has exposed the fragility of care services across Wales, but most of the issues now faced were there before to some degree. The issues include the capacity and capability of RPBs to facilitate regional working and, for example, concerns around fee levels, which are considered by councils to be local issues rather than regional or national. We were told during our review that a regional approach does not always suit commissioning of care homes. It is unclear whether the solutions proposed by the rebalancing care and support white paper around regional working are practical and will deliver the required change.
- 29 There is now an opportunity to build consensus amongst providers, commissioners, service users and the public, about the changes that are necessary to deliver much needed improvements, ensuring these fully address all the issues that remain in the sector.

# Recommendations

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## Exhibit 2: recommendations

### Recommendations

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#### We recommend that the Welsh Government:

- R1 considers what the findings from our work in North Wales mean for planned policy reform and whether these reforms will go far enough to tackle the root causes of the issues; and
- R2 more specifically that it:
- should reduce the complexity of the funding responsibilities across partners to streamline arrangements;
  - clearly describes and communicates how it expects pooled funds to operate across health and social care partners;
  - takes measures to require strengthened scrutiny arrangements and accountability of Regional Partnership Boards (following through with further action in response to a recommendation in our previous report on the Integrated Care Fund); and
  - develops a framework for outcome-based performance reporting, which links to policy ambition and the seven well-being goals for Wales.



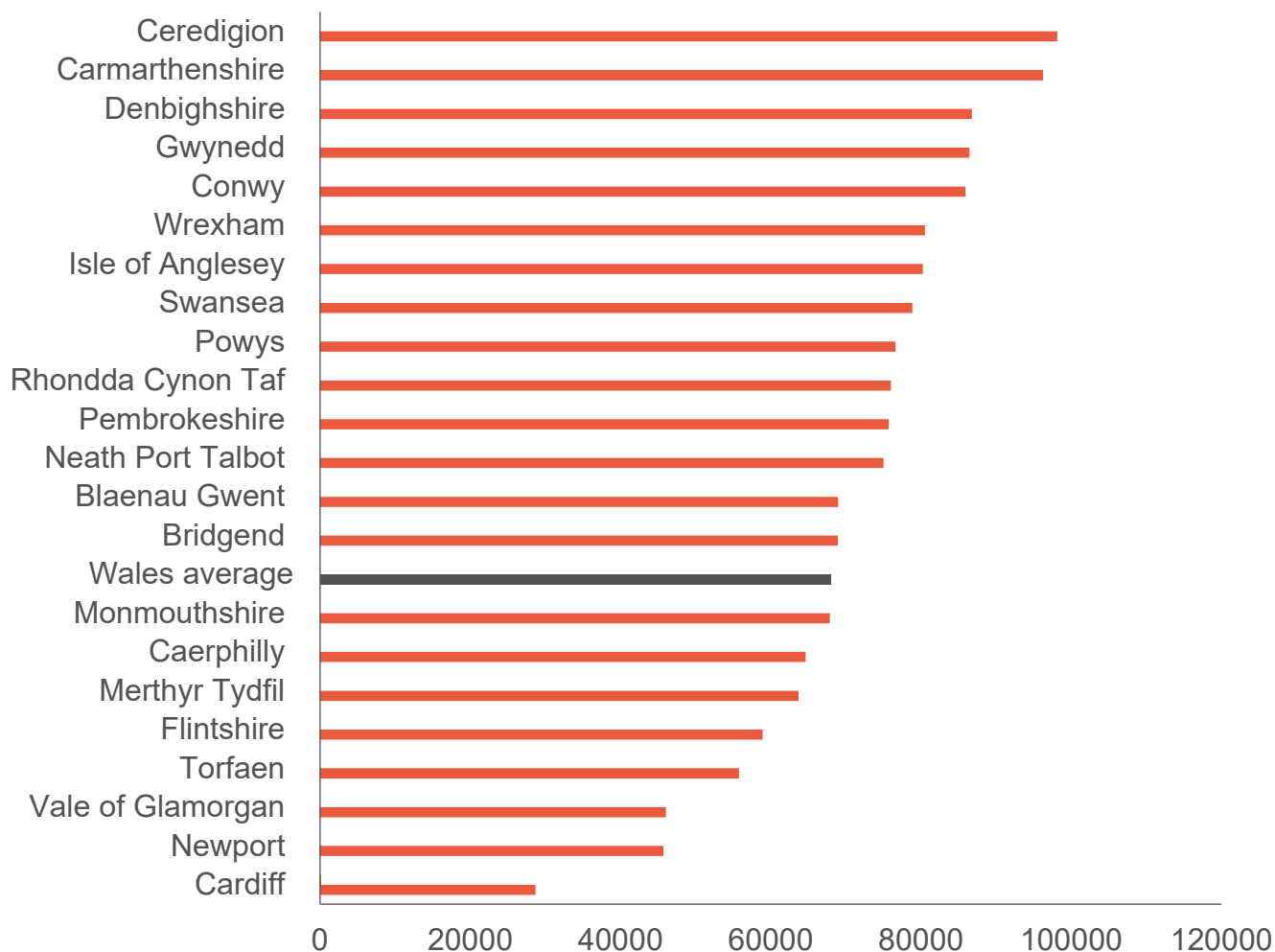
# Appendices

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- 1 **Spending on commissioned care-home placements across Wales**

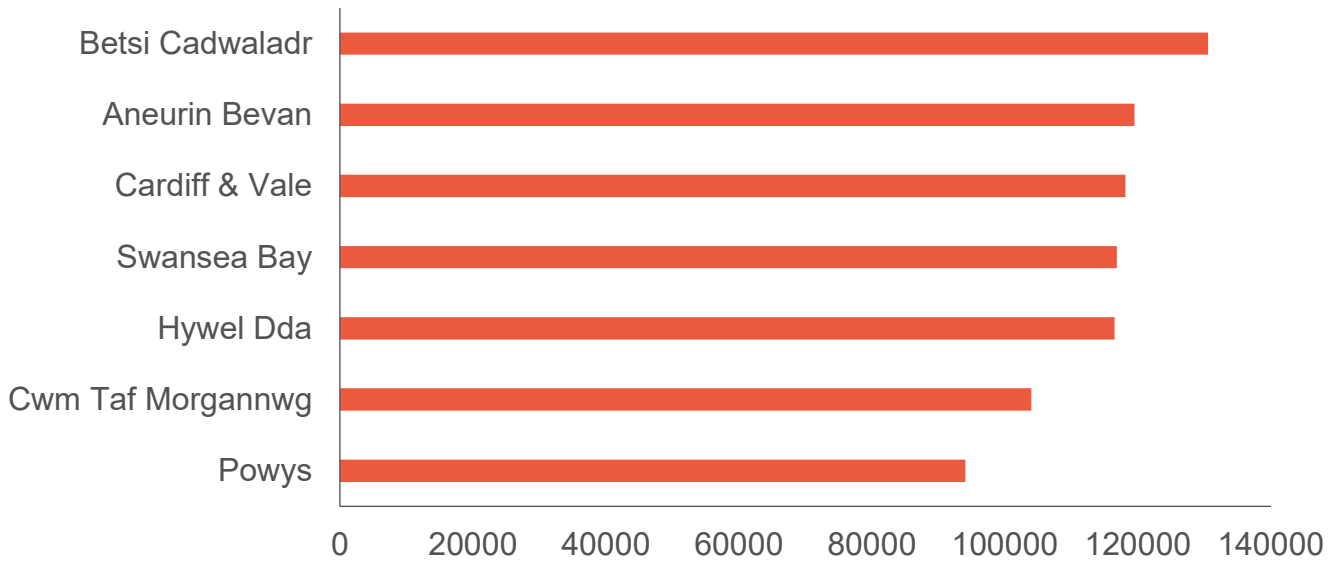
# 1 Spending on commissioned care-home placements across Wales

**Exhibit 3: net expenditure (£) on residential-care placements (excluding nursing care) for those aged 65 years and over per 1,000 population (2019-20)**



Source: StatsWales – Social services revenue outturn expenditure by client group (Older People, residential care placements) and 2019 mid-year population estimates (latest available information as at 31 August 2021)

**Exhibit 4: continuing healthcare expenditure (£) per 1,000 population, 2019-20**



Source: Health Board Annual Accounts and Stats Wales population statistics





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