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Archwilydd Cyffredinol Cymru  
Auditor General for Wales

# Public Procurement in Wales



WALES AUDIT OFFICE  
SWYDDFA ARCHWILIO CYMRU





I have prepared and published this report in accordance  
with the Government of Wales Act 1998 and 2006.

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**Mae'r ddogfen hon hefyd ar gael yn Gymraeg.**

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# Summary report



# Summary report

## Summary

- 1 Each year, public bodies spend significant amounts of money on buying-in goods, services and works from the third and private sectors (often referred to as ‘third parties’ or ‘external’ providers), a process known as procurement<sup>1</sup>. Effective procurement involves:
  - having adequate numbers of appropriately qualified staff and appropriate organisational structures and policies to manage and govern procurement activity;
  - a well-planned process for deciding what the public body needs, including deciding how the public body should provide services and looking at alternative ways of delivering services;
  - sourcing strategies and collaborative procurement – having a good idea of how the public body can best meet its needs;
  - effective contract and supplier management; and
  - effective and reliable processes and ICT systems to support procurement.
- 2 In addition, public bodies need to ensure they have staff with sufficient commercial skills to understand, engage with and shape key markets working in partnership with suppliers and other stakeholders. Public bodies also need staff with these commercial skills to negotiate and manage potentially complex contracts and supply chains, whether public bodies undertake procurement individually or through collaboration.
- 3 Ineffective procurement arrangements present risks for the delivery of public services. Essential goods, services and works not being available in sufficient quantity or quality when required may result, for example, in a service being delayed or being sub-standard. If prices for goods, services and works, do not represent value for money, money is being wasted that could be better spent on front-line services.
- 4 We have prepared this report in the context of a changing landscape for public procurement. Over the last few years, there have been significant changes in public procurement legislation and regulations, both at a European level through the implementation of new EU procurement directives and at a national level with a renewed Welsh Government procurement policy statement. Public bodies must also purchase goods, services and works in the context of wider legislation, such as the Well-being of Future Generations (Wales) Act 2015 and UK-wide legislation such as the Modern Slavery Act (2015).

<sup>1</sup> This report deals with goods and services obtained through procurement and excludes those obtained through grants. The assumption underlying a procured contract is that the recipient is a viable and self-sustaining organisation. The purchaser is buying an agreed service, at an agreed standard, for an agreed price. In contrast, the assumption underlying a grant is that the recipient needs subsidy. The grant funder is therefore subsidising a service it considers necessary, but which the recipient does not otherwise have the resources to deliver on a self-sustaining basis at the required standard.



- 5 Public procurement is also adapting to the rise of electronic tools and technology which should, in theory, make procurement more efficient through electronic advertising of contracts, and systems for invoicing and payments. Public procurement can also benefit from services which enable public bodies to analyse procurement spend to inform their procurement strategies, identify savings opportunities and monitor contract compliance.
- 6 On behalf of the Auditor General for Wales, Wales Audit Office staff have examined whether there is evidence that current procurement arrangements in Wales are helping to deliver value for money in public spending and are fit for the future. Our high-level review relies heavily on secondary evidence and intelligence from our regular audit work. We have not examined in detail individual public bodies' procurement arrangements as part of this review. [Appendix 1](#) provides further detail about our audit methods<sup>2,3</sup>.
- 7 This report sets out the regulatory and policy context for public procurement in Wales. It considers how much public bodies in Wales are spending through procurement and on which goods, services and works, including through the main Wales-based procurement consortia and public buying organisations<sup>4</sup>. The report also examines how individual public bodies are performing and how their procurement arrangements are developing in the context of changing policy and legislation. Given the wide range of public bodies covered by the scope of this report, there is inevitably some variability in local procurement practices and priorities.
- 8 During the early stages of our examination, some public bodies expressed particular concerns about the development and performance of the National Procurement Service (NPS). We paid particular attention to the development of the NPS during the course of our work and this report includes a short summary of related issues. We are preparing a separate stand-alone report that examines the development of the NPS in more detail.

2 We focused most of our data collection and analysis on the 73 member organisations of the National Procurement Service. The 73 member organisations comprise of 22 local authorities, 14 further education institutions, 10 NHS bodies, nine higher education institutions, nine Welsh Government sponsored bodies, four police authorities, three fire and rescue authorities and two central government bodies.

3 The public bodies covered by this report differ widely in size, function and overall expenditure. For example, Sport Wales is predominantly a grant-awarding body with more limited procurement activity than public bodies which are providing services.

4 A purchasing consortium is two or more independent organisations that join together, either formally or informally, or through an independent third party, to combine their individual requirements for procuring goods and services. A public buying organisation provides a wide range of frameworks for goods and services that can be used across the public sector and support collaborative procurement.

- 9 **In 2015-16, public bodies in Wales spent around £6 billion through procurement on a range of goods, services and works. We have concluded that national governance arrangements for procurement could be strengthened and there is clear scope for improvement in procurement arrangements at a national and local level. Public bodies also face challenges in balancing potentially competing procurement priorities, responding to new policy, legislation and technology, and in the recruitment and retention of key personnel.** The following paragraphs provide a brief overview of our key findings.
- 10 The Welsh Government's 2015 policy statement sets out the overriding principles for public procurement, in the context of relevant EU and UK procurement legislation. That legislation reflects the principles of transparency and free movement of goods. In addition, in relation to the Modern Slavery Act, public bodies have an important role to play in sourcing goods, services and works in a manner that enables and rewards suppliers for good employment practices. Those bodies bound by the Well-being of Future Generations (Wales) Act (2015) also need to demonstrate that they are making purchasing decisions with regard to the sustainable development principle. The Welsh Government has already emphasised the importance of delivering wider social, economic and environmental benefits through procurement in its policy statement and the development of a community benefits toolkit.
- 11 The Welsh Government has consulted on mandating various procurement practices through new legislation having been granted further powers in this regard by the UK Government. The Welsh Government is considering its options, taking account of the feedback to the consultation and any potential impact of the UK's planned withdrawal from the European Union.
- 12 The Welsh Government has established a national Procurement Board to provide a senior layer of governance for the implementation and delivery of public procurement policy across Wales. However, the value and effectiveness of the Board has been questioned and there are issues with the balance of its membership. The Board has recognised that there is an opportunity to clarify its focus and refresh its terms of reference. The Welsh Government intends to merge the national Procurement Board with the NPS Board to ensure that there is no overlap between the two boards and to allay any potential confusion over roles and responsibilities.

- 13 In recent years, the Welsh Government has collected procurement data through voluntary participation by public bodies in the 'Collaborative Spend Analysis' Project. The latest figures for 2015-16 cover 53 public bodies across central government<sup>5</sup>, local government, the NHS and further and higher education although there is only full coverage in local government and the NHS. The Collaborative Spend Analysis Project identified £6 billion of procurement expenditure for 2015-16, of which £680 million related to the Welsh Government. The largest spending sector overall was local government (£3.3 billion). The largest category of spend was construction, facilities management and utilities (£1.7 billion).
- 14 Public bodies use a range of procurement consortia and public buying organisations. In 2015-16, they spent £880 million through collaborative procurement managed by the main Wales-based organisations, the NPS, NHS Wales Shared Services Partnership (NWSSP), and the Higher Education Purchasing Consortium Wales (HEPCW). The 73 member organisations of the NPS also spent £123 million through the Crown Commercial Services – an executive agency sponsored by the UK Government. Some procurement consortia and public buying organisations, including the NPS and HEPCW, mainly use framework contracts. However, most of the procurement through NWSSP in 2015-16 was through contracts awarded on an all-Wales basis because it is a shared procurement service acting on behalf of all NHS bodies in Wales.
- 15 While most public bodies we surveyed support the NPS in principle, only one third of members were satisfied with the service. NPS members spent £149 million through NPS managed contracts and frameworks in 2015-16, against an estimated maximum potential spend of £1.1 billion. Non-members spent £4 million through NPS in 2015-16, making total expenditure of £153 million. Indicative figures for 2016-17 show a 57% increase in expenditure through NPS frameworks and contracts to £234 million, £222 million of which related to member organisations. The higher total spend through NPS in 2016-17 is due in large part to a new IT products and services framework (£37 million). The figures also show a £28 million increase in expenditure on a gas and electricity framework that is based on a Crown Commercial Services framework but managed by NPS.
- 16 As at June 2017, NPS had 57 live frameworks. However, the less than anticipated use of NPS frameworks and managed contracts has had a significant impact on the income of NPS, resulting in it not being self-sufficient and dependent on Welsh Government financial support. As a result, the NPS has not yet been able to repay the Welsh Government's £5.92 million Invest-to-Save loan that supported its establishment.

- 17 NPS has reported financial savings for public bodies alongside wider benefits, for example to the Welsh economy, from its activity. As at August 2017, NPS has reported savings of £14.8 million for 2016-17, including a combination of cash releasing savings, process efficiencies and cost avoidance. The savings figures have been substantially lower than some early estimates and the savings figures are disputed by some members<sup>6</sup>. The business case for the establishment of NPS had estimated that NPS would be generating savings of £25 million a year from 1 April 2016<sup>7</sup>. However, that estimate was based on a forecast level spend through NPS – of up to £522 million – that was well in excess of that actually achieved.
- 18 NWSSP reported procurement savings of £37.9 million for 2016-17 against £1.3 billion of expenditure, exceeding its target and having also met its savings targets for the previous two years. NWSSP operates through a centralised model whereby a team working for NWSSP manages procurement at each individual NHS body. While six of the 10 NHS bodies we surveyed indicated that they were satisfied with the service provided by NWSSP, three indicated that they were not<sup>8</sup>. The main issues raised with us related to some problems with delays in paying invoices and other processing issues. From NWSSP's perspective, these issues have since been resolved. We identified generally positive views about other aspects of the procurement service but still with some scope for improvement.
- 19 According to its members, HEPCW is providing a satisfactory service and has reported financial savings of just under £11 million in 2015-16 against £97 million of expenditure. Public bodies also report that other collaborative procurement arrangements are proving effective at a regional and sector level.
- 20 There is clear scope for improvement in public bodies' procurement arrangements. We found that public bodies' procurement strategies are of varying quality and some of those we sampled were out-of-date. The last round of Welsh Government sponsored Procurement Fitness Checks in 2013-14 showed a lack of overall maturity across the bodies assessed and the extent of follow-up action reported by individual public bodies varied. In addition, while the Welsh Government has identified common themes from the Fitness Checks, some of the activity that had been planned to support improvement has not subsequently been progressed.

6 At the request of the Director of NPS, the Welsh Government's Internal Audit Service has undertaken two audits of the arrangements for reporting savings and has identified some areas for improvement in the measurement and reporting of the savings figures. NPS is responding to these issues.

7 The business case estimated that £9 million (36%) of the £25 million of savings would be cash releasing.

8 One NHS body did not answer the question.

- 21 The Welsh Government is planning to consult on rolling out a more evidence-based programme of checks following some recent pilot work. The timeframes for delivering a new programme of fitness checks will emerge from this consultation. Meanwhile, public bodies have experienced several notable procurement failures in recent years and our wider audit work continues to identify examples of other weaknesses in procurement arrangements. These examples need to be considered in the context of the overall volume of procurement activity undertaken each year by public bodies.
- 22 Public bodies face challenges in balancing potentially competing procurement priorities and in responding to new legislation and policy and are responding in different ways. Despite some investment by the Welsh Government through the part EU-funded Transforming Procurement through Home Grown Talent Programme, public bodies continue to have problems in recruiting and retaining qualified procurement personnel. Several noted that they have lost some of their more experienced and qualified procurement staff to jobs in different consortia or public buying organisations and other non-devolved public bodies in Wales and yet they retain responsibility locally for some more complex, higher-value and higher-risk procurements. The Welsh Government's bid for further European funding to support a follow up to the Home Grown Talent Programme was rejected and is considering how public sector procurement capability development may be provided in a future programme for procurement.
- 23 Finally, we found that public bodies are increasing their use of electronic procurement tools and resources, but there are inconsistencies in take-up and application. The Welsh Government established an e-procurement service programme to help public bodies adopt a number of systems and services which public bodies can use free of charge. The Welsh Government reviewed the programme in 2016-17 and closed it on 31 March 2017 because the projects are being mainstreamed across public bodies. Most public bodies reported that they are using sell2Wales, the Welsh Government's online notice publication tool, for at least some of their contracts under European Union procurement thresholds. However, they were doing so to different degrees and there was a lack of support in a recent Welsh Government consultation for requiring the use of sell2Wales for all contracts over £25,000.

## Recommendations

- R1 The clearance of our report highlighted some concerns about the accuracy of the NPS Collaborative Spend Analysis data supplied initially by individual public bodies. For example, one local authority had incorrectly included several million pounds of grants and staff expenses. There are also some notable gaps in the data collection including the majority of further education colleges and some Welsh Government sponsored bodies. **We recommend that the Welsh Government:**
- **encourage public bodies to review the accuracy of the data that they provide for the Collaborative Spend Analysis project, reflecting on the issues identified in the course of our work; and**
  - **explore with the further education sector and the missing Welsh Government sponsored bodies why they will not engage with the Collaborative Spend Analysis project, with the aim of all public bodies participating in 2017-18.**
- R2 Some public bodies have raised concerns about the governance arrangements for procurement at a national level, including the effectiveness of the national Procurement Board. **In taking forward its plans to merge the national Procurement Board with the NPS Board we recommend that the Welsh Government:**
- **clearly sets out, for example on its website, the accountability and governance structure for public procurement in Wales, particularly in relation to the role and remit of the revised national Procurement Board arrangements; and**
  - **invite representation from Welsh Government Sponsored Bodies, the Office of the Future Generations Commissioner, the third sector and from public bodies in North Wales.**
- R3 It was clear from our sampling that some procurement strategies are out-of-date and there has also been a mixed response to new policy and legislation such as the Well-being of Future Generations (Wales) Act 2015. **We recommend that public bodies review their procurement strategies and policies during 2017-18 and on an annual basis thereafter to ensure that they reflect wider policy and legislative changes and support continuous improvement.**

## Recommendations

R4 Welsh Government funded procurement fitness checks provided an opportunity for public bodies to take stock of the strengths and weaknesses of their procurement activities. However, there were some concerns about the robustness of the last round of checks and the consistency of approach, while the action taken by public bodies by way of follow-up has varied. **In rolling out a new round of checks, we recommend that the Welsh Government:**

- **ensure that the Procurement Fitness Checks are carried out consistently to allow for more effective benchmarking;**
- **provide guidance to public bodies on the expectations for follow-up self-assessments;**
- **work with the national Procurement Board to analyse the results and identify action that can be taken at a national level to support further improvement;**
- **include an assessment of where public bodies stand in relation to procurement policy statement recommendations – for example, that there should be a minimum of one procurement professional per £10 million of procurement spend across the wider public sector.**

R5 The Welsh Government is promoting the use of a community benefits approach to public sector procurement with the aim of delivering social, economic and environmental benefits. In 2014, the Welsh Government developed a community benefits toolkit designed to measure community benefits by capturing added-value outcomes. **We recommend that the Welsh Government update its community benefits toolkit, including taking account of the Well-being of Future Generations (Wales) Act 2015 and building on lessons learned from current practice across Wales such as the use of community benefits champions.**

## Recommendations

- R6 Public bodies have experienced long-standing issues with the recruitment and retention of suitably qualified procurement staff, exacerbated by some parts of the public sector offering more favourable terms and conditions. While the Welsh Government completed the £11 million, Transforming Procurement through Home Grown Talent Programme, to raise procurement skills and competences across the whole of the Welsh public sector and increase awareness of the value of these skills, it is currently planning how to follow it up. **In following up its work on the Transforming Procurement through Home Grown Talent Programme, the Welsh Government should explore with public sector partners the impact of differential pay for procurement staff across different sectors and any potential solutions.**
- R7 The supplier qualification information database (SQulD) is an important development designed to simplify and standardise the selection of contractors. However, Welsh Government data indicates that public bodies' application of the SQulD approach is variable. **We recommend that the Welsh Government better promote the use of the SQulD to public bodies and assess its use as part of the procurement fitness checks.**



## Part 1

The principles governing public procurement are set out in a range of legal and policy frameworks but national governance arrangements could be strengthened



- 1.1 In this part of the report we focus on the legislative and policy frameworks which underpin public procurement in Wales. We also consider the Welsh Government's recent consultation on the potential for regulating on certain requirements for procurement and the role of the national 'Procurement Board' in the governance of public procurement in Wales.

## The Welsh Government's policy statement sets out the overriding principles for public procurement, in the context of relevant EU and UK legislation

Procurement legislation reflects the principles of transparency and free movement of goods and the Welsh Government's 2015 policy statement sets out the procurement practices expected of Welsh public bodies

- 1.2 A range of legal and policy frameworks are in place for public procurement (Figure 1). The overarching legislation is set out in the European Union Directive on public procurement<sup>9</sup>. The directive sets out detailed procedures that public bodies<sup>10</sup> must follow before awarding a contract whose value equals or exceeds specific thresholds<sup>11</sup>. The other main EU Directive directly affecting public procurement relates to the award of concession contracts<sup>12</sup>.

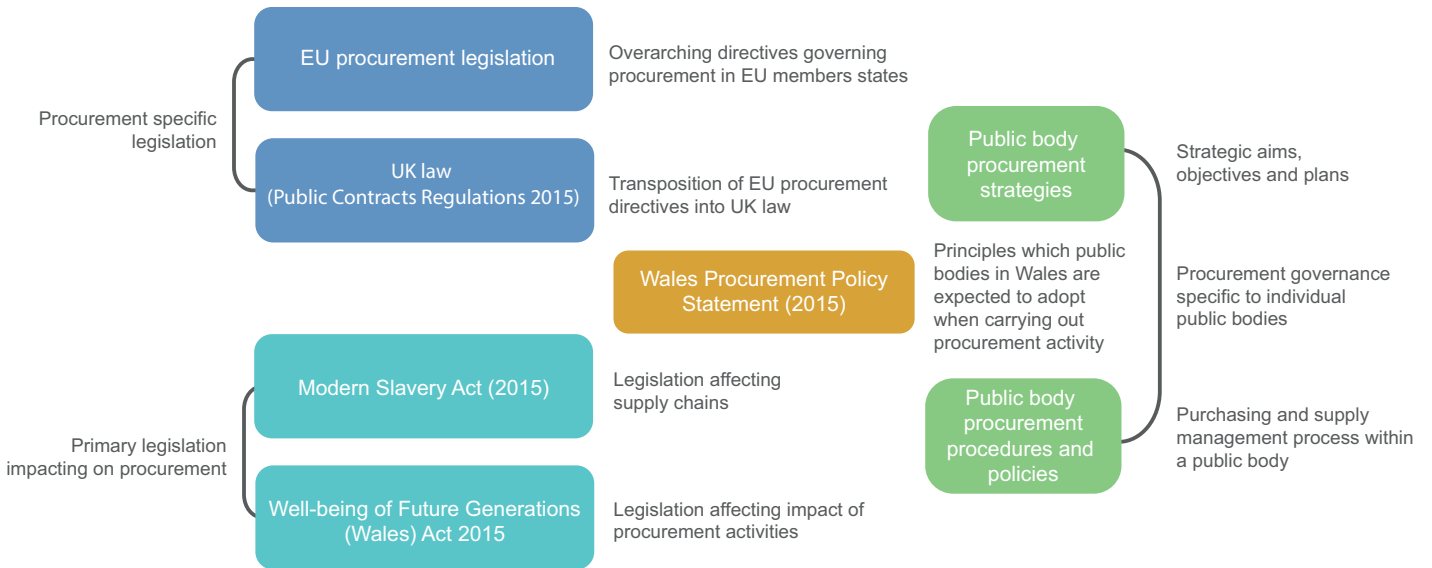
9 Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement

10 The Directive applies to 'contracting authorities' as defined by the Public Contracts Regulations 2015

11 Above certain contract values, European Procurement Directives require that public bodies must publish contract opportunities via the Official Journal of the European Union (OJEU). There are different thresholds for different types of organisation, and for different types of goods, services or works.

12 Directive 2014/23/EU of the European Parliament and of the Council of 26 February 2014 on the award of concession contracts. A concession contract is a contract under which a contracting authority or a utility outsources works or services to a contractor or provider, who then has the right to commercially exploit those works or services in order to recoup its investment and make a return.

Figure 1: legislative and policy framework for public procurement in Wales



Note: The Public Contracts Regulations do not apply in Scotland. There is a parallel implementation through the Public Contracts (Scotland) Regulations 2015.

Source: Wales Audit Office

- 1.3 The EU public procurement directive is based on the principles of transparency, non-discrimination and free movement of goods. The directive has been transposed into English, Northern Irish and Welsh law through the Public Contracts Regulations 2015 (Box 1) which took effect from 25 February 2015.
- 1.4 Using its powers to introduce primary legislation on procurement, the Scottish Government enacted the directive through the Procurement Reform (Scotland) Act 2015. The Scottish legislation extends beyond the basic transposition of the EU Directive. For example, the Scottish Government has made it a legal requirement for public bodies which have an estimated procurement spend of £5 million or more (excluding VAT) in a financial year to publish annual procurement strategies. The Scottish Government has also introduced lower thresholds above which the regulations must be followed. The Scottish legislation also includes a sustainable procurement duty forcing organisations to show the community impact of their purchasing.

## Box 1 – Public Contracts Regulations 2015

The new Directives, transposed into English, Welsh and Northern Irish law through the Public Contracts Regulations 2015, simplify the EU procurement rules with the intention of making public procurement faster and less costly. For the public sector, this should mean faster procurement, less red tape and more focus on getting the right supplier. For suppliers, the aim is to make bidding for public contracts quicker, less costly and less bureaucratic, enabling suppliers to compete more effectively. Some of the key changes in the new regulations include:

- the integration of environmental, social and labour requirements into public procurement procedures;
- new provisions to facilitate better access by small and medium-sized enterprises to public procurement ;
- simplifying procurement processes through a new duty of ‘proportionality’ along with the principles of transparency, equal treatment and non-discrimination, including simplifying the process of assessing bidders’ credentials;
- promoting the use of e-procurement which will gradually become mandatory including the e-submission of tenders and requests to participate;
- greater freedom to negotiate with potential suppliers than allowed by the previous rules;
- prohibiting circumventions of the procurement rules by deliberately sub-dividing contracts for the same type of good or service to stay below the thresholds;
- greater allowance for engaging with the market early in the procurement process and involving suppliers in the preparation of procurement exercises; and
- a ‘new light touch regime’ has been introduced for social, health and other related services – listed at Schedule 3 of the Public Contracts Regulations 2015 – recognising the special characteristics of social services and the importance of cultural context and sensitivity.

1.5 In a recent discussion paper<sup>13</sup>, we highlighted that currently there is some uncertainty as to whether the EU procurement directives apply to the procurement activities of some publicly funded organisations. However, the public bodies covered in this report are all subject to the Directives.

<sup>13</sup> Auditor General for Wales, **Discussion Paper: The Governance Challenges posed by Indirectly Provided, Publicly Funded Services in Wales**, February 2017.

- 1.6 Public bodies in Wales must also take into account other non-procurement specific legislation that can impact their procurement activities, such as the Modern Slavery Act (Box 2) and, for some, the Well-being of Future Generations (Wales) Act (Box 3). For example, in relation to the Modern Slavery Act, public bodies have an important role to play in sourcing goods, services and works in a manner that enables and rewards suppliers for good employment practices, rather than purchasing in a manner which drives the use of modern day slavery practices. In respect of the Well-being of Future Generations (Wales) Act, the Act requires those organisations bound by it to do things – including procurement activity – with regard to the economic, social, environmental and cultural well-being of Wales in a way that accords with the sustainable development principle.

### Box 2 – Modern Slavery Act (2015)

The Modern Slavery Act 2015 came into force on 1 October 2015 and from 31 March 2016 businesses or part of a business, in the UK, and which have a total annual worldwide turnover of £36 million or more had to start publishing annual 'Transparency in Supply Chain' statements. Businesses contracting with the public sector will need to ensure that they have complied with the fundamental requirements of the Modern Slavery Act, or risk facing exclusion at the qualification stage.

Contracting authorities are able to integrate the compliance requirements for potential suppliers under the Modern Slavery Act into two areas of the public procurement tender process:

- at the gateway stage, within the government's revised Pre-Qualification Questionnaire - under the Public Contracts Regulations 2015;
- within the evaluation criteria used to choose the winning tender.

For bidders, non-compliance also raises the possibility of exclusion from being able to bid for future public sector contracts.

### Box 3 – Well-being of Future Generations (Wales) Act 2015

The Welsh Government has put in place the Well-being of Future Generations (Wales) Act 2015 as the latest step in embedding sustainable development in the public sector in Wales. The Act is underpinned by the sustainable development principle: development that meets the needs of the present without compromising the ability of future generations to meet their own needs. The Act requires specified public bodies, including the Welsh Government, to set and publish objectives designed to maximise their contribution to the seven national well-being goals. They are also required to take all reasonable steps to meet those objectives. The Act identifies five ways of working which can support the wellbeing of future generations – integration, collaboration, long-term thinking, involvement and prevention.

While the majority of public bodies in Wales are bound by the Act, further and higher education institutions are not. Nevertheless, the Act has implications for relevant policy, funding and oversight arrangements in these sectors. We noted in our recent report on further education<sup>14</sup> that the further education sector has itself been considering the policy implications of the Act and its current sustainable development practice.

- 1.7 Although there is no Wales-specific procurement legislation, the Welsh Government issued its first procurement policy statement in 2012. The genesis of the 2012 procurement policy statement was a review commissioned by the Welsh Government to consider the overall effectiveness of Welsh public sector procurement policy and how its impact could be maximised. The review, known as the ‘McClelland review’<sup>15</sup> recommended that Welsh Government procurement policy be consolidated into a single ‘Policy and Practices Document’. The intention was that this document would serve as a blueprint for public servants in their conduct of public procurement.
- 1.8 The Welsh Government updated and reissued the policy statement in 2015<sup>16</sup> in light of changes in policy priorities and to reflect other legislative changes. Part 4 of this report provides further evidence on the extent to which public bodies are adopting procurement practices consistent with the policy statement, including the community benefits approach (paragraph 4.30 to 4.36) and the use of e-procurement (paragraph 4.46).

<sup>14</sup> Auditor General for Wales, **Welsh Government oversight of further-education colleges’ finances and delivery**, February 2017

<sup>15</sup> John F McClelland, **Maximising the Impact of Welsh Procurement Policy**, August 2012

<sup>16</sup> Welsh Government, **Welsh Procurement Policy Statement**, June 2015

- 1.9 The 2015 policy statement covers such issues as resources, sustainability and future generations, community benefits, open competition, procurement processes, collaboration, supplier engagement and innovation, policy development and implementation and measurement and impact. Adherence to the policy statement is voluntary, although the Welsh Government expects it to form the basis for procurement policy in all public bodies. The policy statement, taken together with the legislation described above, provides the basis for public bodies' own standing orders or financial instructions and strategies and policies for procurement. These standing orders or financial instructions will include provision for securing competition in the award of contracts and for regulating the manner in which tenders are invited.
- 1.10 The policy statement identifies a broad range of benefits that are expected from public procurement in addition to achieving best price. Central to the policy statement is delivery of community benefits (Box 4). The Welsh Government has developed detailed guidance to define what it considers to be within the scope of community benefits. To help public bodies measure community benefits, the Welsh Government has developed a toolkit<sup>17</sup> designed to capture added-value outcomes. The Welsh Government has requested that public bodies report any community benefits that are realised for contracts over £1 million using the approach outlined in the toolkit.
- 1.11 The Welsh Government believes that the number of organisations committed to using community benefits had already increased significantly following publication of the 2012 procurement policy statement. The Welsh Government is developing further guidance to align the delivery of community benefits approach with the Well-being of Future Generations (Wales) Act 2015 and the national well-being goals.

#### Box 4 – 2015 procurement policy statement and community benefits

The Wales procurement policy statement adopts a definition of procurement that ensures value for money is considered in the very widest sense when contracting in the public sector in Wales:

‘Procurement is the process whereby organisations meet their needs for goods, services, works and utilities in a way that achieves value for money on a whole life basis in terms of generating benefits not only to the organisation, but also to society and the economy, whilst minimising damage to the environment.’

The community benefits approach is principle 4 of the Wales procurement policy statement and seeks to act upon this wider definition of value for money by delivering the very widest social, economic and environmental benefits in the course of securing the goods, services or works required by the public sector in Wales.

<sup>17</sup> The Welsh Government's Community Benefits Toolkit is a mechanism for recording and reporting Community Benefit outcomes.

**The Welsh Government has consulted on mandating various procurement practices, although the prospect of new legislation is now on hold following the result of the referendum on UK membership of the European Union**

- 1.12 In August 2015, the UK Government granted Welsh Ministers permission to legislate on public procurement. The then Welsh Government Minister for Finance issued a statement setting out the Welsh Government's intention to use the new powers to, among other things, maximise the impact of the Wales Procurement Policy Statement and promote collaborative procurement.
- 1.13 In April 2016, the Welsh Government launched a consultation on the prospect of new public procurement legislation. The specific topics under consideration were:
- annual reporting on key procurement indicators;
  - the use of community benefit clauses in contracts;
  - increasing the use of 'reserved contract' opportunities for suppliers providing routes to meaningful employment for people who may otherwise have difficulty in accessing work opportunities;
  - advertising all contracts over £25,000 on the Welsh Government's procurement portal 'sell2wales.gov.wales' and a range of other commitments aimed at reducing barriers for suppliers wishing to access public contracts in Wales;
  - the use of specific contracts and/or framework agreements let by procurement consortia or public buying organisations;
  - that contracts should only be awarded on the basis of what is known as 'most economically advantageous tender' – contract criteria that reflect qualitative, technical and sustainable development related aspects of the tender submission as well as price; and
  - whether public bodies should be under a legal duty to apply any guidance issued by the Welsh Ministers relating to collective agreements regarding environmental, social and/or labour law.
- 1.14 The Welsh Government received responses to the consultation from a mix of public bodies, third sector organisations, businesses and trades unions. Overall, there was a mixed response to the issues raised, with clear delineation between less supportive responses from public bodies and more supportive responses from the private and third sectors. The Welsh Government is considering its options, taking account of the feedback to the consultation and any potential impact of the UK's planned withdrawal from the European Union.



## The national Procurement Board should provide governance for the implementation and delivery of procurement policy in Wales but currently has limited effectiveness

1.15 The Welsh Government established the national Procurement Board to provide a senior layer of governance for the implementation and delivery of public procurement policy across Wales (Box 5). The Welsh Government consulted recently on the effectiveness of the Board with its members, senior managers across public bodies and the NPS Delivery Group<sup>18</sup>. The consultation found that, in general, public bodies do not always see the Procurement Board as adding value. The Procurement Board concluded that the reason behind this assertion was because the strategic nature of the Procurement Board is difficult to articulate.

### Box 5 – Procurement Board

The national Procurement Board provides a governance mechanism for the implementation and delivery of public procurement policy across Wales. It aims to promote good practice in public procurement policy.

In April 2010, the First Minister for Wales announced the creation of an Efficiency and Innovation Programme to provide practical leadership and action to enable public services to improve outcomes for citizens while responding to the pressure on public finances. The programme was underpinned by six workstreams, including Collaborative Procurement and Commissioning. The Collaborative Procurement and Commissioning Board or 'Procurement Board' continued to operate after the closure of the Efficiency and Innovation Programme.

The Board comprises of nominated representatives from various sectors. Board membership includes representation from the Welsh Government (covering public procurement and economic development and also representing sponsored bodies), local authorities, the NHS, higher and further education, police and fire services and private business. The Board meets bi-monthly and is currently chaired by the Chief Executive of Newport City Council.

The focus of the Procurement Board is the adoption of the principles set out in the Wales Procurement Policy Statement by all public bodies in Wales. It also oversees the Welsh Government's advice to public bodies on procurement policy and reviews regular progress reports from the Director of the NPS.

<sup>18</sup> The Delivery Group is responsible for providing oversight on operational matters and is accountable to the NPS Board.

- 1.16 The national Procurement Board agreed that the review provided an opportunity to: reflect on the work of the Board to date; on standing agenda items; and on the areas that will require members' time in coming years such as the implications of the UK's planned withdrawal from the European Union. It also agreed that it was an opportunity to refresh the Board's terms of reference and that the Board should have a more focused remit. In particular, the Procurement Board agreed that it should be the strategic voice of the profession advising the Cabinet Secretary for Finance and Local Government on procurement policy, driving the strategic direction of procurement in Wales, identifying the next generation of leaders, and helping these leaders develop the procurement profession in Wales.
- 1.17 Although the Procurement Board meets regularly and discusses a range of topical issues, there are issues with the balance of its membership. For example, the Welsh Government sponsored bodies have no direct representation, but are represented by the Welsh Government. The Procurement Board also has no members from the geographical area of North Wales.
- 1.18 In addition, the Board could potentially benefit from including representatives of the third sector. The Future Generations Commissioner has also highlighted procurement as an area of focus, and the Board may benefit from input from her office.
- 1.19 Separate to the national Procurement Board, the NPS is governed by the NPS Board which therefore itself plays an important role in the governance of public procurement across Wales. The Welsh Government intends to merge the NPS Board and the national Procurement Board to ensure that there is no overlap between the two boards and to allay any potential confusion over roles and responsibilities. The NPS also has a separate Delivery Group. The Delivery Group is responsible for providing oversight on operational matters and is accountable to the NPS Board.

## Part 2

In 2015-16, public bodies in Wales spent around £6 billion through procurement on a range of goods, services and works



- 2.1 This part of the report sets out an analysis of the Welsh public sector's spend through procurement on goods, services and works during 2015-16. We have based much of this analysis on data collected on behalf of the National Procurement Service (NPS) by an external supplier.
- 2.2 The clearance of our report highlighted some concerns about the accuracy of the NPS Collaborative Spend Analysis data supplied initially by individual public bodies<sup>19</sup>. While we have set out the aggregated procurement spend of individual bodies based on 2015-16 data, the spend profile could vary significantly from year to year. For example, because of the timing of high-cost capital projects or because of local decisions on whether services are contracted out to external suppliers rather than being delivered in-house.

## In recent years, the Welsh Government has collected procurement data through the Collaborative Spend Analysis project to provide an overview of public procurement expenditure

- 2.3 The NPS Collaborative Spend Analysis Project is funded by the Welsh Government. 53 public bodies provided data on a voluntary basis for 2015-16, covering expenditure on a range of goods, services and works. These 53 bodies included all 22 local authorities, 10 NHS bodies and the Welsh Government. For three of the sectors covered by the project, the data is incomplete<sup>20</sup>:
  - although further education institutions only account for a comparatively small amount of procurement spend, only two of the 14 further education institutions in Wales submitted data – Coleg Cambria and Pembrokeshire College;
  - only three of the nine Welsh Government sponsored bodies (Arts Council for Wales, National Library of Wales and Natural Resources Wales) submitted data; and
  - one higher education institution did not participate – Wrexham Glyndŵr University.

<sup>19</sup> Data for the Collaborative Spend Analysis Project is uploaded from public bodies' electronic financial systems. Spend data is classified mainly based on information known about suppliers. Classifications can be created or modified by public bodies.

<sup>20</sup> In addition, the data collection exercise does not cover the three national park authorities in Wales.

- 2.4 The data provided as part of the spend analysis project helps inform Welsh Government policy-making and enables a more strategic approach to procurement decision-making by NPS. Individual organisations can analyse their data down to single purchases to understand demand and prices across local, regional, and national contracts. This analysis can help organisations drive spend through formal contracts, reduce the level of procurement spend with suppliers not covered by a contract (known as ‘off-contract’ spend), or spend not made in-line with corporate procedures. Developing a thorough understanding of procurement expenditure is also essential to the development of a well-informed strategy. Figures showing how often public bodies access the centrally held data suggest that the extent to which it is used to inform their procurement activity varies.
- 2.5 It is however important that public bodies ensure that the data supplied for the spend analysis project is accurate. For example, one local authority had incorrectly included several million pounds of grants and staff expenses.

## The Collaborative Spend Analysis project identified £6 billion of procurement expenditure for 2015-16, of which £680 million related to the Welsh Government

- 2.6 The Collaborative Spend Analysis project identified expenditure on procurement of goods, services and works in 2015-16 worth around £6 billion<sup>21</sup>. To put this figure in context, it amounts to more than a quarter of the approximate £21 billion total overall spend of the same 53 public bodies in 2015-16 including procurement, pay and other expenditure. The largest spending single organisation in 2015-16 was the Welsh Government which procured goods, services and works worth £680 million (11% of the total procurement spend<sup>22</sup>). Taken together, local government, central government and NHS Wales bodies accounted for 90% of the procurement expenditure across the 53 public bodies.
- 2.7 Unsurprisingly, the larger the organisation, the more it generally spends on procuring goods, services and works. Drawing on the Collaborative Spend Analysis Project data and figures reported separately by NHS bodies, our analysis shows that the average procurement spend as a proportion of total organisational spend was 18%. However, there were notable differences between and within individual sectors based on this calculation (Figure 2). As noted in paragraph 2.12, these differences could reflect a variety of reasons.

21 As of August 2017, 44 public bodies had submitted data for the 2016-17 spend analysis project, totalling nearly £6 billion.

22 Total expenditure data is taken from public bodies’ 2015-16 audited accounts and includes all capital and revenue spend. For the Welsh Government, we have based this analysis on an estimate of Welsh Government expenditure on its own activities, excluding the funding allocated to local government, NHS bodies, further and higher education institutions and Welsh Government sponsored bodies.

Figure 2: range and average of procurement spend as a percentage of total spend by sector, 2015-16

Sector <sup>1</sup>	Highest	Lowest	Average
Local government	51	19	34
Central government and sponsored bodies	41	12	27
Police and fire and rescue	45	14	24
Health	22	13	18
Higher and further education	40	17	23
<b>All</b>	<b>51</b>	<b>12</b>	<b>25</b>

Notes:

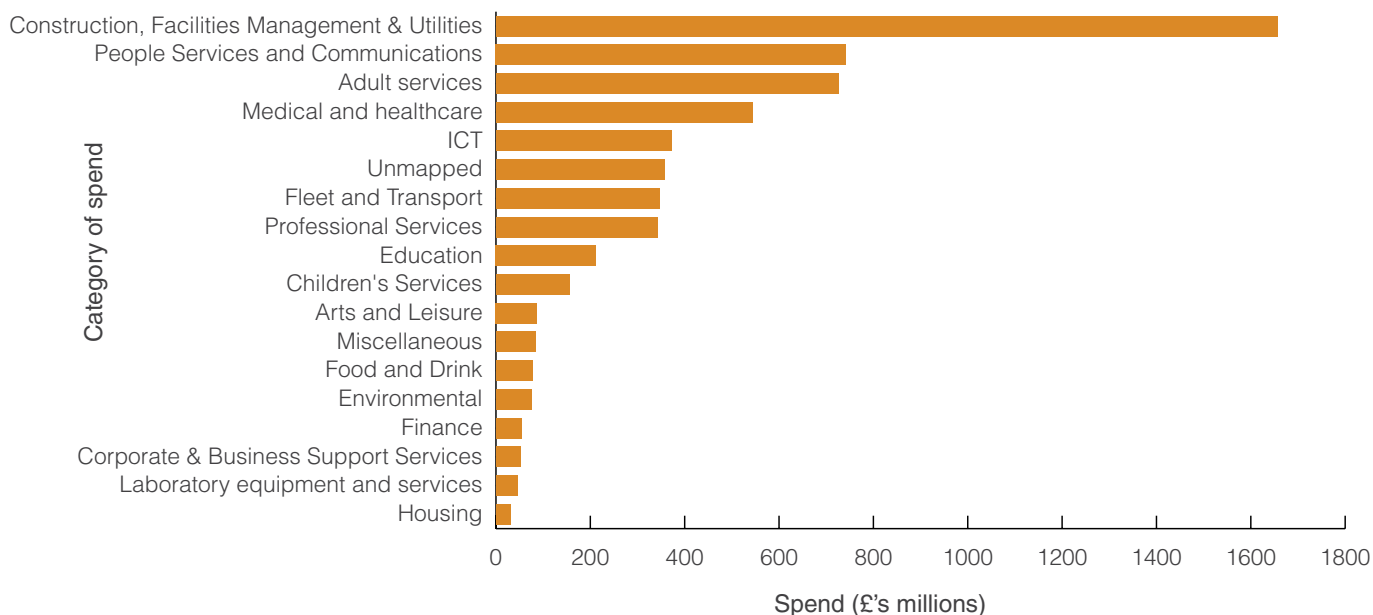
1 For the purposes of this analysis, we combined the further education and higher education sectors and the police with the fire and rescue sector.

Source: Wales Audit Office analysis of NPS Collaborative Spend Analysis Project data and published accounts

## The largest category of spend was construction, facilities management and utilities which accounted for £1.7 billion of procurement spend

- 2.8 The data collected through the Collaborative Spend Analysis project is based on nine categories. Individual organisations are responsible for classifying their expenditure into the various categories. Those nine categories include a broad range of activity classified by the project as ‘non-common and repetitive spend’, which accounted for more than £2 billion of the total £6 billion expenditure reported. To make this category of expenditure more meaningful, we identified ten sub-categories which included high spend areas such as adult services (£726 million) and education goods, services and works (£212 million).
- 2.9 **Figure 3** shows that the highest spend category for 2015-16 was construction, facilities management and utilities totalling £1.7 billion, over a quarter of all expenditure. The top three categories accounted for more than half of all procurement spend in 2015-16. The total construction, facilities management and utilities figure included £233 million of Welsh Government expenditure. **Appendix 2** summarises sector expenditure by category.

Figure 3: procurement spend by category, 2015-16



Notes

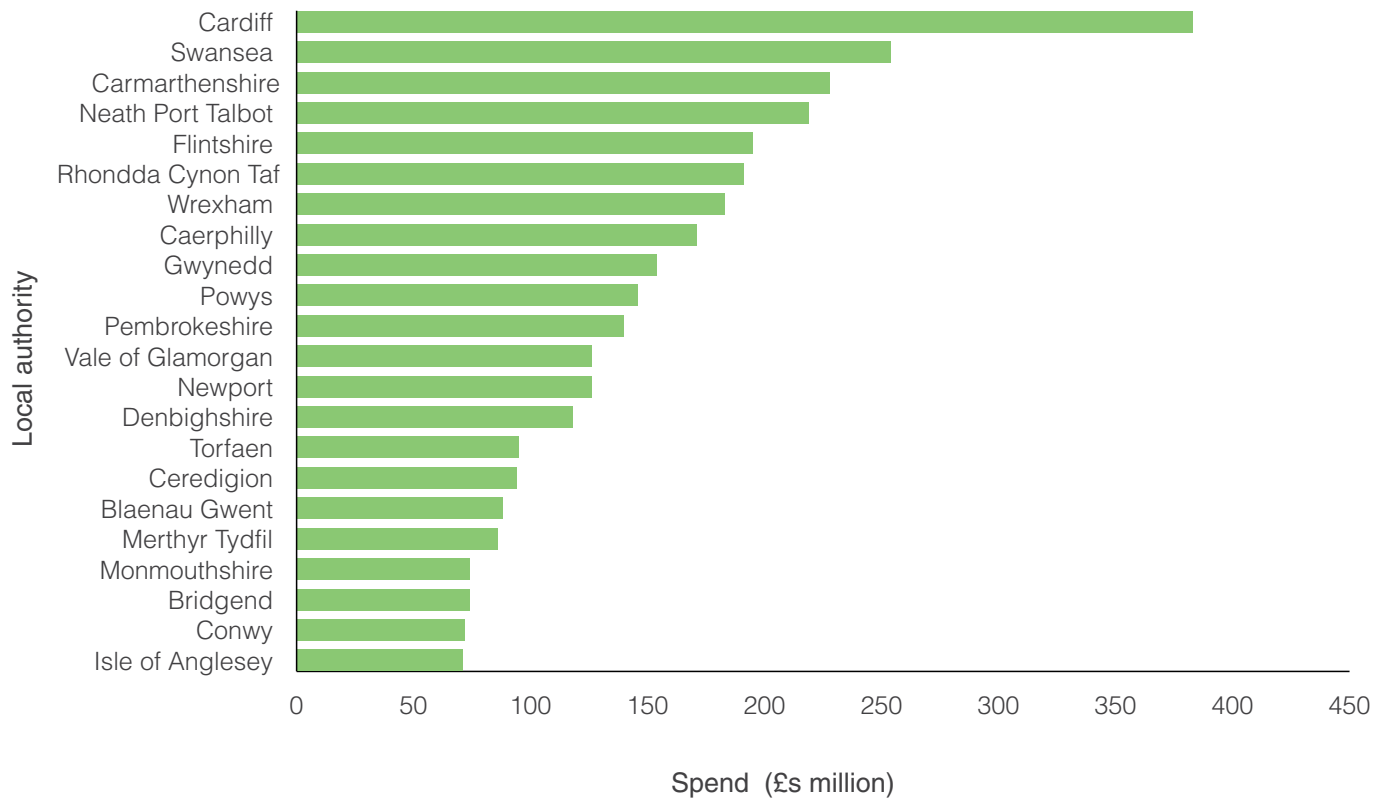
- 1 'Unmapped' is where it is not clear under which category spend should be assigned.
- 2 The ten sub-categories that we classified under the non-common and repetitive spend category are: adult services, arts and leisure, children's services, education, environmental, housing, financial, laboratory equipment and services, medical and healthcare and miscellaneous.

Source: NPS Collaborative Spend Analysis project data (based on 53 public bodies)

## Local authorities spent £3.3 billion through procurement in 2015-16, over half of the total procurement spend by public bodies

2.10 The data collected by the Collaborative Spend Analysis project for 2015-16 shows that, at £3.3 billion, local government accounted for over half of all procurement expenditure in Wales. The largest spending local authority was Cardiff Council which spent £383 million (12% of all local authority procurement spend and 29% of its own total expenditure) (Figure 4). The smallest spending local authority was the Isle of Anglesey County Council which spent £71 million, but equivalent to 32% of its total expenditure. A third of all local authority procurement spend (£1.1 billion) was on goods, services and works relating to construction, facilities management and utilities.

Figure 4: local authority procurement spend 2015 - 2016



Source: NPS Collaborative Spend Analysis Project data



2.11 The proportion of procurement spend on five of the categories reported by the Collaborative Spend Analysis Project was fairly even across local authorities. For example, the proportion spent on Corporate and Business Support services ranged between 1% and 3%. However, there was more significant variation across four categories. The biggest variation was in the Construction, Facilities Management and Utilities category where local authorities were spending between 18% and 53% of their total procurement spend. Other notable differences included:

- the data suggested that the proportion of procurement spend on fleet and transport varied between 0.1% and 12%. However, the local authority reporting the highest proportion of procurement spend on fleet and transport believes that the figures reported in its case include concessionary fare reimbursement to private sector suppliers rather than procurement of fleet and transport goods and services.
- the range of spend on People Services and Communications varied between 2% and 15% of total procurement spend;
- the range of spend on adult services varied between 11% and 36% of total procurement spend; and
- spend on children's services accounted for between 1% and 12% of procurement spend.

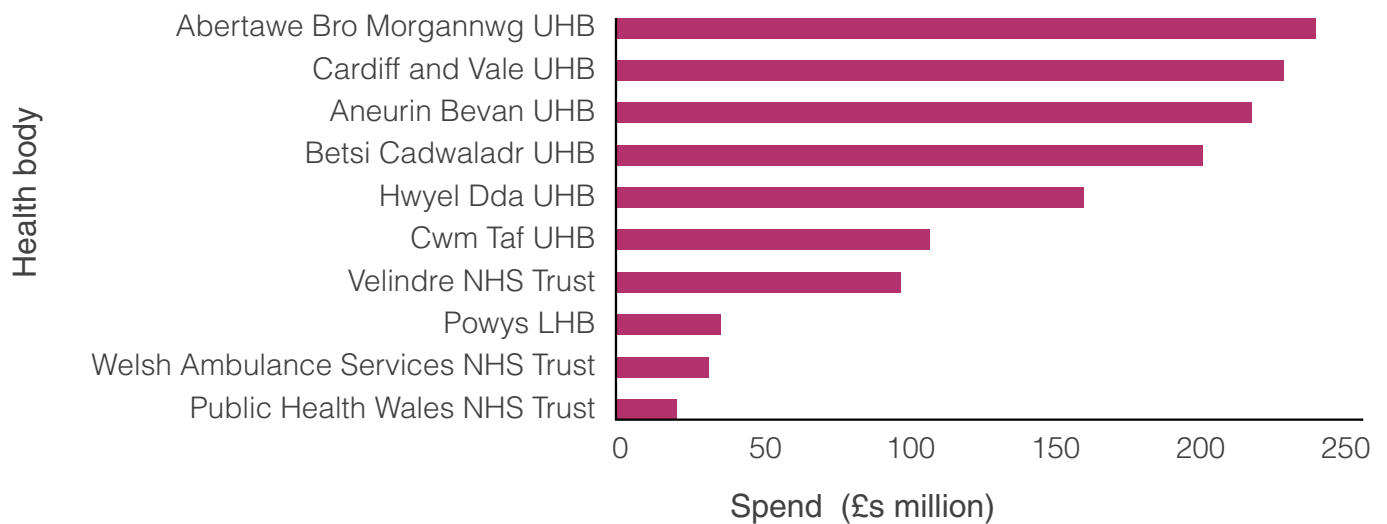
2.12 These examples may reflect differences in geography or demographics; high capital spend, such as one-off building projects; or situations where local authorities have bought in services that others may be providing in-house. In addition, because individual public bodies upload the data for the NPS Collaborative Spend Analysis Project from individual finance systems, some of these anomalies may result from errors or differences in coding practice.

### **NHS bodies reported procurement spend of £1.3 billion in 2015-16, the majority of which was on medical and healthcare supplies and equipment**

2.13 Data provided by NHS Wales Shared Services Partnership (NWSSP) for the Collaborative Spend Analysis Project showed that the total procurement expenditure for NHS bodies was £1.3 billion. While we have used the categories provided by the Collaborative Spend Analysis Project which are common across all sectors, NWSSP categorises procurement expenditure on a different basis.

2.14 Within the £1.3 billion reported in 2015-16, the highest spending organisation was Abertawe Bro Morgannwg University Health Board (Figure 5). This health board spent over £240 million (nearly 18% of all NHS Wales procurement spend and 22% of its total expenditure). However, four health boards spent more than £200 million through procurement. The smallest spending NHS body was Public Health Wales NHS Trust which spent just over £20 million through procurement, 18% of its total expenditure

Figure 5: NHS Wales procurement spend 2015-16



Source: NPS Collaborative Spend Analysis Project data

2.15 The largest area of expenditure reported by the spend analysis project was medical healthcare supplies and equipment (£472 million). This accounted for 35% of health procurement spend and around 8% of the £6 billion expenditure across the whole of the public sector in 2015-16. This category includes items such as drugs (£160 million) and medical and surgical equipment (£167 million). The second largest area of spend was people services and communications (£462 million). Within this category, agency staff accounted for £133 million of expenditure (12% of all health expenditure) through agreements such as the All Wales Nursing Agency Framework and various medical locum staffing frameworks.

## Part 3

Procurement consortia and public buying organisations are reporting financial savings, although there are mixed views on the effectiveness of some of these arrangements



- 3.1 This part of the report provides a brief overview of the main Welsh based procurement consortia and public buying organisations used by public bodies – the NPS, NHS Wales Shared Services Partnership (NWSSP) and the Higher Education Purchasing Consortium, Wales (HEPCW). We are preparing a separate stand-alone report that examines the development of the NPS in more detail. Public bodies in Wales also make use of a number of other sector and non-sector specific frameworks around the UK, including substantial expenditure through the Crown Commercial Service (CCS)<sup>23</sup>.

## Public bodies use a range of consortia and public buying organisations, with £880 million spent through collaborative procurement managed by the main Wales-based organisations in 2015-16

- 3.2 Welsh public bodies have been using procurement consortia and public buying organisations (Box 6) for several decades, for example, the now defunct Welsh Purchasing Consortium was established in 1974<sup>24</sup>. While procurement consortia and public buying organisations have traditionally been sector based, in recent years they have been set up across the UK to serve multiple-sectors where there are works, goods, services and works of a common and repetitive nature such as stationery and ICT.

<sup>23</sup> CCS is an executive agency, sponsored by the Cabinet Office which brings together policy, advice and direct buying; providing commercial services to the public sector across the UK. CCS frameworks were used by public sector organisations for £12.8 billion of public spending in 2015-16. In 2015-16, CCS also directly bought £2.5 billion of common goods and services on behalf of government departments.

<sup>24</sup> The Welsh Purchasing Consortium was made up of 16 local authorities in South, Mid and West Wales delivering competitive procurement arrangements, sharing best practice, and the development and adoption of a suite of standard procurement documentation. Each member authority arranged contracts or framework agreements on behalf of all 16 local authorities. The operation of the Welsh Purchasing Consortium ended on 31 March 2016.

## Box 6 – What are procurement consortium and public buying organisations?

A purchasing **consortium**, such as NHS Wales Shared Services Partnership, is two or more independent organisations that join together, either formally or informally, or through an independent third party, to combine their individual requirements for procuring goods and services. The aim of a procurement consortium is to leverage more value-added pricing, service, and technology from their external suppliers than could be obtained if each public body purchased goods and services independently. Purchasing goods and services through a consortium approach should reduce effort and cost to allow public bodies to focus on more complex and specialist procurement.

A **public buying organisation** or public sector owned professional buying organisations, such as HEPCW and the NPS, provide a wide range of frameworks for goods and services that can be used across the public sector and support collaborative procurement.

Some procurement consortia and public buying organisations operate through raising a rebate from suppliers as a percentage of the amount purchased through a contract which suppliers pay to the organiser of the consortia.

- 3.3 Procurement consortia and public buying organisations offer a number of potential benefits including financial savings, improved service levels, savings in both time and resources, and reducing the risk of non-compliance with EU procurement legislation. However, in realising these benefits, procurement consortia face a number of challenges, for example, agreeing on common specifications for goods, services and works across multiple organisations and sectors, agreeing a common savings methodology and capturing savings information at an organisational level.

3.4 There are three main Wales-based public procurement consortia and public buying organisations:

- the Welsh Government established the **NPS** in November 2013 with the overriding objective to 'buy once for Wales' on behalf of the public sector in areas of common and repetitive spend while embedding the Wales Procurement Policy Statement into all contracts and frameworks. There are 73 public bodies signed up as NPS members<sup>25</sup> including all local authorities, NHS Wales, the National Assembly for Wales Commission, the Welsh Government and Welsh Government Sponsored Bodies, the police and fire and rescue services and higher and further education institutions.
- **NWSSP** was established in April 2011 and is an independent organisation, owned and directed by NHS Wales operating under the legal framework of Velindre NHS Trust. NWSSP supports NHS Wales through the provision of various support functions and services, including procurement services. Procurement services provide sourcing, supply chain, purchasing, procurement expertise and accounts payable service to health boards and NHS trusts. NWSSP expands on the shared procurement service for NHS Wales which previously existed in the form of Welsh Health Supplies.
- **HEPCW** is a public buying organisations supported and funded by Welsh higher education institutions and hosted by Cardiff University. It is one of six regional public buying organisations that support the UK higher education sector. HEPCW membership is comprised of seven full members (the higher education institutions located in South and West Wales) and five associate members which includes the two North Wales higher education institutions<sup>26</sup> and three further education institutions. HEPCW provides members with access to collaborative agreements let and managed by other UK higher education procurement consortia or public buying organisations, as well as setting up all-Wales agreements on behalf of Welsh institutions. HEPCW also sets up UK national and/or inter-regional agreements which are available to both its members and members of other higher education consortia.

<sup>25</sup> Public sector organisations throughout Wales were invited to sign up to the National Procurement Service as members. The offer was that the NPS will provide contracts for common and repetitive spend goods and services in return for commitment from public sector organisations to buy through its contracts and frameworks

<sup>26</sup> Bangor University and Wrexham Glyndŵr University are associate members of HEPCW. They are also full members of the North Western Universities Purchasing Consortium.

- 3.5 In 2015-16, Welsh public bodies spent £880 million through collaborative frameworks and agreements arranged by these three organisations, with the majority of spend through NWSSP (Figure 6). The 73 member organisations of the NPS also spent £123 million through CCS – following expenditure of £216 million in 2014-15. In addition, 16 local authorities in Wales were using the Welsh Purchasing Consortium<sup>27</sup>. However, we have been unable to obtain data on expenditure through the Welsh Purchasing Consortium in 2015-16. Some Welsh Purchasing Consortium frameworks and related expenditure transferred to NPS before and/or during 2015-16.
- 3.6 Public bodies are also using a range of other consortia and public buying organisations to varying degrees. It has previously been estimated that there are over 140 collaborative buying organisations or consortia in UK public sector procurement. Of these around 50 had a more formal status and were widely recognised<sup>28</sup>.

Figure 6: expenditure through collaborative frameworks and agreements arranged by the three main Wales-based procurement consortia and public buying organisations in 2015-16

Organisation	Total spend by Welsh public bodies 2015-16 (£s million)
NWSSP	634
NPS (members <sup>1</sup> )	149
HEPCW	97 <sup>2</sup>
Total	880

Notes:

- 1 There was an additional £4 million of expenditure through NPS frameworks by non-member organisations (see paragraph 3.12).
- 2 This represents spend incurred only by the full members of HEPCW and does not therefore include Bangor University and Wrexham Glyndŵr University. HEPCW figures are based on the academic year 1 August to 31 July.

Source: HEPCW, NPS and NWSSP

<sup>27</sup> The Welsh Purchasing Consortium was made up of 16 local authorities in South, Mid and West Wales. Each member authority arranged contracts or framework agreements on behalf of all 16 local authorities.

<sup>28</sup> National Audit Office, **A review of collaborative procurement across the public sector - List of professional buying organisations**, May 2010

- 3.7 For 2015-16, the highest spending public body through the Crown Commercial Service was Betsi Cadwaladr University Health Board which spent more than £24 million, £17 million of which was for agency staff. Abertawe Bro Morgannwg University Health Board (£8.4 million) and Aneurin Bevan University Health Board (£8.1 million) had the next highest spend through the Crown Commercial Service.
- 3.8 Procurement consortia and public buying organisations typically use one of two types of contracting – framework agreements and directly awarded contracts (Box 7). Most of the procurement through NWSSP in 2015-16 was through contracts directly awarded on an all-Wales basis, on behalf of all NHS bodies. However, most of the spend through the NPS and HEPCW was through organisations using multi-supplier frameworks on an individual basis, rather than combining their purchasing power for a single contract covering multiple organisations. Procurement consortia and public buying organisations can also procure contracts on behalf of a group of public bodies. For example, in 2015-16, the Welsh Government, through NPS, procured a contract for eTrading Wales, a centrally funded service which enables buyers and suppliers to interact electronically for the supply and payment of goods and services. The Welsh Government paid £10 million for this contract which is available to all NPS members.



## Box 7 – how procurement consortia and public buying organisations contract for works, goods, and services

Consortia generally operate by either directly awarding contracts on behalf of multiple organisations with the same specification for the works, goods or services and a commitment to a level of spend or volume; or by setting up framework agreements which can be used by members of the consortia or public buying organisations. Framework contracts contain an estimated value, which is subject to EU thresholds ([paragraph 1.2](#)), but without any firm commitment to purchasing levels.

Framework agreements can take one of three forms:

- a single supplier framework (might be suitable for procurement of complex or sophisticated services and/or where requirement involves the need for a close relationship or a big upfront investment on the supplier's side); or
- a multi-supplier framework (might be suitable for procurement of standard supplies and/or where a single supplier cannot meet the requirement); or
- a dynamic purchasing system is an electronic tendering process for the selection of suppliers who meet a set of minimum service requirements but where new suppliers may join the system over time if they meet the minimum service standards ([paragraph 4.54](#) and [Box 11](#)).

Framework agreements cover the essential terms for the award of a series of specific contracts during a given period. Their terms may include the duration, pricing, conditions of performance and services envisaged. Frameworks generally only operate for four years under EU regulations, after which the awarding body must re-tender.

When setting up a framework agreement, a competition usually takes place to identify one or more potential suppliers. Once the agreement is in place, public bodies can agree contracts for specific services. This can sometimes involve further mini-competitions between the framework contractors which are not subject to the full procurement process. The award criteria used for mini-competitions need not be the same as those applied in the award of the framework agreement itself.

- 3.9 Although using mini-competitions on multi-supplier frameworks has its advantages, it is less likely to deliver financial savings than when organisations work together and commit to purchasing minimum volumes. Outside of the NHS, we found little evidence of public bodies coming together to jointly purchase goods, services and works on a minimum volume basis, aside from some notable exceptions ([Case study 1](#)). We recognise that this sort of arrangement is not practical in all cases.

## Case study 1 – using a common specification and commitment to volume to procure police vehicles

The police service is able to achieve better value for money for the purchase of vehicles, tyres and vehicle parts through collaboration between police forces. In 2015, under the Crown Commercial Service vehicles purchase framework, 22 police forces worked to standardise their vehicle specifications. They went to the market under a specific framework for emergency vehicles with committed volumes for a two-year period. The framework includes extended warranties, original equipment parts and single solutions to vehicle conversion requirements. Other groups of forces have followed the same process. The group that included the southern Wales police forces delivered savings of around £5 million, an average 18% reduction in the actual cost of vehicles when compared with previous arrangements. The majority of the remaining whole life costs of the vehicles such as fuel, servicing and repairs, are spent in local force areas.

## Public bodies are not using National Procurement Service frameworks as much as anticipated, resulting in concerns over its funding, less than anticipated savings – £14.8 million reported for 2016-17 – and with many of its members dissatisfied

- 3.10 We found that there remains broad support for the principle of the NPS in terms of the overall objectives, in particular the need for greater collaboration through ‘buying once for Wales’ to drive financial savings. However, there were concerns about the performance of the NPS.
- 3.11 We found that, overall, only a third of member organisations expressed satisfaction with the service provided by NPS<sup>29</sup>. No NHS bodies indicated that they were satisfied and less than a third of local authorities were satisfied. The Welsh Government was dissatisfied with the service provided by NPS despite being the host organisation. However, with the exception of one body, all the Welsh Government sponsored bodies were satisfied. Given the diverse membership of NPS, satisfying all organisations at any point in time may prove difficult. However, the success of NPS ultimately relies upon public bodies having confidence in and using its contracting arrangements.
- 3.12 NPS member organisations spent £149 million through NPS managed contracts and frameworks in 2015-16, against an estimated maximum potential spend of £1.1 billion<sup>30</sup>. Non-member organisations spent a further £4 million through NPS in 2015-16 making total expenditure of £153 million.

<sup>29</sup> 44% of respondents to this question in our survey expressed dissatisfaction, with 23% indicating ‘don’t know’.

<sup>30</sup> As estimated in the 2015 NPS business plan.

3.13 Two areas of expenditure accounted for over half of all of the expenditure by members and non-members through NPS in 2015-16:

- Gas and Electricity – £39.9 million or 26% of spend. This framework was based on an existing Crown Commercial Services agreement but has not been used by NHS bodies who procure energy through NHS Wales Shared Services Partnership. The agreement is managed by NPS on behalf of public bodies having transferred from Rhondda Cynon Taf County Borough Council in October 2015. The coverage of the agreement has since expanded.
- Agency Workers – £46.4 million or 30% of spend. This expenditure included £35.3 million on a framework contract that NPS had inherited from the Welsh Purchasing Consortium. NPS had renegotiated the terms of the agreement and extended its coverage across more public bodies. During 2015-16, NPS established a new agency worker framework to succeed the Welsh Purchasing Consortium agreement.

3.14 Indicative figures for 2016-17 show a 57% increase in expenditure through NPS frameworks and contracts to £234 million, £222 million of which related to member organisations<sup>31</sup>. The figures show expenditure of £68 million on the gas and electricity framework (29% of spend) and £50 million on the new NPS agency worker framework (21% of spend). An IT Products and Services framework established in early 2016 accounted for £37 million (15%) of the total expenditure in 2016-17.

3.15 As of June 2017, NPS had 57 live frameworks. However, less than anticipated use of NPS frameworks and managed contracts has had a significant impact on the income of NPS<sup>32</sup>, resulting in it not being self-sufficient and not yet able to repay the Welsh Government's £5.92 million Invest-to-Save loan that supported its establishment.

3.16 Some NPS frameworks were scarcely used in both 2015-16 and 2016-17. For example, the Biomass Fuels framework was not used in 2016-17 and will not be renewed when it expires in 2019. This framework was put in place based on a customer request. NPS has recently agreed that it will not set-up any new frameworks valuing less than £1 million per year. It will also only set up new frameworks valued at less than £5 million if there is clear demand across multiple public bodies.

<sup>31</sup> Appendix 1 includes details about the member organisations. Non-member organisations buying through NPS in 2015-16 and/or 2016-17 have included a range of devolved public bodies as well as some registered social landlords, other third-sector organisations and some non-devolved government agencies. The figures for non-member expenditure include the Wales Audit Office: £107,049 (2015-16) and £262,198 (2016-17).

<sup>32</sup> NPS generates income through a mandatory rebate on suppliers, currently set at 0.45% of the value of goods/services purchased by public bodies through NPS agreements.

- 3.17 In 2015-16, the NPS generated income of only £339,143, compared with operating costs of £2.4 million. Indicative figures for 2016-17 show an increase in income to £0.9 million, compared with operating costs of £2.8 million. After exhausting the Invest to Save loan in 2015-16, Welsh Government reserves met the shortfall in funding in 2016-17, a situation which will continue until at least the end of 2017-18.
- 3.18 One of the key objectives of the NPS is to deliver financial savings for public bodies in their purchasing of goods, services and works. The business case for the establishment of the NPS set out potential total savings of £98 million over a 5-year period alongside other benefits. The business case estimated that when it was fully operational by 1 April 2016, NPS would start delivering total savings of up to £25 million per year and other benefits<sup>33</sup> from a spend of £522 million. It is clear that these and some other subsequent estimates have proved overly ambitious.
- 3.19 The total savings reported by the NPS for 2014-15 of £7.9 million (Figure 7)<sup>34</sup> were nearly double the amount targeted in the 2012 business case for its establishment but significantly lower than the £15 million later forecast by NPS in June 2014. The June 2014 forecast was however based on an assumed spend through NPS of £1.4 billion.

Figure 7: NWSSP's reported financial savings, November 2013 to March 2017

Period	Reported savings
November 2013 - March 2014	1.5
2014-15	7.9
2015-16	12.6
2016-17	14.8

Note: NPS savings are comprised of three categories: (1) cash releasing savings – procurement activities that result in the release of physical cash from budgets usually based on reducing the cost of goods or services through commercial activity; (2) cost avoidance – the avoidance of expenditure possibly as a result of demand management or by negotiating out of a proposed price increase to maintain price at the existing level; and (3) process efficiencies – reducing the effort expended through procurement, particularly where this releases resource for other activities

Source: NPS

<sup>33</sup> The business case estimated that £9 million (36%) of the £25 million would be 'cash releasing savings' (Figure 7).

<sup>34</sup> National Procurement Service, **NPS Annual Report 2014/15**, 2015

- 3.20 NPS's May 2015 business plan predicted total savings for 2015-16 at a minimum of £8.5 million based on a maximum spend of £1.1 billion. The NPS reported actual savings of £12.6 million exceeded the business plan forecast. The savings reported by NPS represent 8.5% of NPS's total spend, exceeding the target set in the 2015 business plan to deliver savings worth a minimum of 3% of total spend under NPS management. Although these figure include savings from inherited frameworks, NPS only report savings against reduced prices from renegotiated inherited frameworks or from new users of these frameworks.
- 3.21 As at August 2017, NPS has reported total savings of £14.8 million for 2016-17 (6% of total spend managed by NPS). Although the 2015 business plan did not predict total savings for 2016-17, NPS estimates from June 2014 predicted total savings` of £13 million, but from a spend of £1.5 billion. NPS has also reported on the wider benefits of its frameworks and agreements. NPS reported that it has supported the creation of some 177 jobs in Wales since it was established in November 2013. Other notable benefits to the Welsh economy as reported by NPS include: of the 613 suppliers on NPS frameworks, 323 are based in Wales (53%); and 245 of these suppliers are small and medium sized enterprises based in Wales (40%).
- 3.22 The savings figures reported by NPS have been disputed by some members. At the request of the Director of NPS, the Welsh Government's Internal Audit Service has twice reviewed the effectiveness of the processes adopted to identify and validate NPS related savings. The last review examined the 2015-16 savings. The Welsh Government's Internal Audit Service gave a reasonable assurance rating on the controls in place.
- 3.23 The review of 2015-16 savings identified a concern that suppliers were not always submitting expenditure data to NPS on a monthly basis, with the consequent risk that NPS is unable to verify both spend and savings. It also noted that the reported savings figures did not take account of situations where individual contracts or lots on a particular framework had experienced a price increase compared with previous arrangements. The review encouraged NPS to improve the documentation of evidence relating to savings calculations. NPS accepted the findings of the report and was already taking action in 2016-17 to address some of the issues identified.

**NHS Wales Shared Services Partnership is reporting procurement savings of just under £38 million for 2016-17 and its members are generally satisfied with the procurement service**

**NHS bodies are generally satisfied with the NWSSP procurement service, although there have been some issues with the payment of invoices**

- 3.24 The scope and range of activities undertaken by the NWSSP is wider ranging than that of the NPS. Unlike the NPS, the NWSSP manages a process from sourcing of works, goods, services and works to taking delivery, contract management and payment, a process known as 'purchase to pay'. NHS bodies are also mandated to use NWSSP for their purchasing requirements. NHS Wales directly funds the NWSSP from the allocation given by the Welsh Government each year, meaning that it does not have to raise its own income. In 2015-16, NWSSP's operating budget for its procurement activities was £14 million.
- 3.25 NWSSP operates through a centralised model whereby NWSSP manages procurement at each individual NHS body. The model is based on the premise that a shared service organisation allows individual NHS bodies to focus on delivery of front line services while also promoting a greater focus on the development of high quality transactional and professional service functions. This operating model means that the NWSSP is able to work towards a 'buying once for Wales' policy whereby it is looking to consolidate contracts across NHS bodies. For example, where there may have been 20 air conditioning contracts across NHS Wales, the NWSSP's consolidation programme will reduce it to one. NWSSP currently manages some 2,800 all-Wales contracts. NWSSP's operating model is reflected in NHS Wales' procurement strategy, which sets out a collective vision and goals across all NHS bodies in Wales<sup>35</sup>.

<sup>35</sup> NHS Wales, **Procurement NHS Wales – strategy, 2017-2022**, April 2017. The new strategy reflects changes in the procurement landscape such as the Wales Procurement Policy Statement (2015) and the Well-being of Future Generations (Wales) Act (2015).

3.26 Our survey of NPS members asked all ten NHS bodies for their views on the procurement service provided by the NWSSP. We found that six of the NHS bodies were satisfied with the service provided by the NWSSP, while three were not<sup>36</sup>. We found that the main reason for dissatisfaction with the service was problems with the accounts payable process<sup>37</sup>. The accounts payable process moved from the individual NHS bodies to the NWSSP in 2011, but at the time of our survey some NHS bodies were still experiencing problems with delays in paying invoices and other processing issues following the upgrade of the ledger system in April 2014. From NWSSP's perspective, these issues have since been resolved.

3.27 We found from our survey that NHS bodies expressed generally positive views about the service provided in terms of reducing the cost of procurement, securing lower prices for goods, services and works, improved compliance with EU legislation and better contract management. However, it was clear that health bodies identified three areas for improvement:

- only three NHS bodies agreed that using NWSSP has resulted in faster procurement, with three neither agreeing or disagreeing and three disagreeing;
- only two NHS bodies agreed that using NWSSP had resulted in increased business with small and medium-sized enterprises, with three NHS bodies disagreeing; and
- only three NHS bodies agreed that using NWSSP has resulted in the achievement of more community benefits, with two NHS bodies disagreeing.

<sup>36</sup> One NHS body did not answer the question

<sup>37</sup> Accounts payable is responsible for processing all invoice and non-payroll payments ment landscape such as the Wales Procurement Policy Statement (2015) and the Well-being of Future Generations (Wales) Act (2015).

NWSSP has reported savings of £37.9 million for 2016-17 against a target of £23.4 million, having also met its savings targets in the two previous years

3.28 For both 2014-15 and 2015-16, NWSSP marginally exceeded its financial savings targets of £17.5 million and £20.7 million respectively (Figure 8). For 2016-17, NWSSP exceeded its £23.4 million savings target by 62%, achieving savings of £37.9 million from a total NHS procurement spend of £1.3 billion (3%).

Figure 8: NWSSP's reported financial savings, 2014-15 to 2016-17

	Target (£s millions)	Actual (£s millions)
2014-15	17.5	17.6
2015-16	20.7	21.4
2016-17	23.4	37.9

Source: NHS Wales Shared Service Partnership

3.29 We asked NHS bodies whether they agreed that using NWSSP has resulted in cashable savings. We found that nine of the ten NHS bodies agreed. The only NHS Wales organisation to disagree was Public Health Wales NHS Trust, even though it made savings of £0.4 million in 2015-16.



## According to its members, the Higher Education Purchasing Consortium Wales is providing a satisfactory service and has reported financial savings of just under £11 million in 2015-16

- 3.30 We asked nine higher education institutions<sup>38</sup> for their opinion of the service provided by HEPCW. All nine were satisfied with the service they receive.
- 3.31 We also asked HEPCW member organisations the same questions about the service provided by HEPCW as we did concerning the NPS (paragraph 3.11) and the NHS Wales Shared Services Partnership. For HEPCW, we found that overall, results were favourable in the areas of reducing administration, speeding up procurement, lowering prices, reducing the number of tenders, complying with EU legislation and better contract management. However:
- three member organisations either strongly agreed or agreed that using HEPCW had resulted in increased business with small and medium-sized enterprises, with one member disagreeing and the remainder neither agreeing or disagreeing; and
  - three member organisations either strongly agreed or agreed that using HEPCW had resulted in the achievement of more community benefits, with two members disagreeing.
- 3.32 We also asked HEPCW member organisations about savings. We found that nine member organisations either strongly agreed or agreed that using HEPCW had resulted in savings. HEPCW reported savings for full members in 2015-16 of £10.8 million. This is based on collaborative spend through HEPCW of £97 million.

<sup>38</sup> The University of Wales are members of HEPCW but as they are not members of the NPS, were not included in our survey. University of Wales, Trinity St David and Coleg Sir Gar have a joint procurement arrangement and provided a joint response; Wrexham Glyndŵr University declined to answer the questions asking for their opinions on HEPCW.

## Public bodies report that other collaborative procurement arrangements are proving effective at a regional and sectoral level

- 3.33 We identified a number of other arrangements where public bodies are working together to procure goods, services and works in Wales on a regional or sectoral basis. These include, for example, the three Welsh Fire and Rescue Authorities jointly procuring vehicles, local authorities joining together to form the South East and South West Wales construction and engineering framework<sup>39</sup>, South East Wales local authorities jointly procuring high cost adult care packages and local authorities jointly procuring waste treatment capacity. In the Ceredigion region, six public sector bodies have set up the Ceredigion Procurement Forum ([Case study 2](#)). Public bodies told us that the main advantage of these local or regional arrangements was the ability to encourage local suppliers to bid for a place on frameworks, while at the same time driving down prices. We also found an example of public bodies working together to share procurement capability and expertise ([Case study 3](#)).
- 3.34 While outside of the scope of the NPS in any case, our recent report on the 21st Century Schools and Education Programme<sup>40</sup> noted that the Welsh Government has required local authorities to come together to procure construction and refurbishment works using one of three regional frameworks unless there are exceptional circumstances not to do so. While we concluded that the frameworks were a positive development, we noted that they could operate more effectively.

<sup>39</sup> This framework is now managed by NPS.

<sup>40</sup> Wales Audit Office, [The 21st Century Schools and Education Programme](#), May 2017

## Case study 2 – Ceredigion Procurement Forum

The forum comprises Aberystwyth University, Ceredigion County Council, Dyfed Powys Police, Mid and West Wales Fire and Rescue Authority, the National Library Wales, Tai Ceredigion, Natural Resources Wales, the Welsh Government, Dyfed Powys Probation Service and One Voice Wales. The forum seeks collaborative procurement opportunities for common and repetitive goods, services and works that NPS frameworks do not cover. The forum currently has three frameworks in place – kitchen equipment and maintenance, lift maintenance and minor works.

When appropriate, a lotting strategy is applied to make the framework opportunities more attractive and accessible to small local suppliers. For example, the minor works framework is divided into geographical bands with values of up to £2,999, between £3,000 and £24,999 and £25,000 to £100,000. This framework was let to 43 companies, of which 33 are small and medium-sized enterprises based in Ceredigion.

The group also meets to share good practice and intelligence, for example through presentations by NPS and suppliers; looking at tendering opportunities, training and spend analysis. NPS have regular interaction with Ceredigion Procurement Forum and has discussed taking on management of some of the agreements.

## Case study 3 – Sharing procurement services between public bodies

The 'Procurement Shared Service Arrangement' between Pembrokeshire County Council and Pembrokeshire College is now entering its second year.

Starting in January 2016 the Pembrokeshire College agreed to pay a fixed annual sum in return for receiving procurement advice and support from Pembrokeshire County Council. This support takes the form of a Council Procurement Officer working part time at the College managing the day to day purchasing activity, with the Council's Head of Procurement providing strategic advice and direction. The agreement also allows the College to benefit from support from the Council's Community Benefits Officer.

For Pembrokeshire County Council, the shared service has proved a good development opportunity for staff and has brought in an income stream at a time of ongoing budget pressures. Pembrokeshire College benefit from tapping into the Council's procurement expertise and having access to procurement related legal advice for which they would previously have paid the private sector. By making use of the specialist Council resource, the shared service ensures the College maximises its community benefits opportunities and meets the other principles of the procurement policy statement.

## Part 4

There is clear scope for improvement in public bodies' procurement arrangements and additional challenges arising from new policy and legislation



- 4.1 Although the Welsh Government is actively encouraging public bodies to participate in collaborative procurement, each public body has autonomy when it comes to individual purchases, procurement strategies, policies and procedures. This part of the report examines how individual public bodies are performing and how they are dealing with the challenges of public procurement in the context of changing policy and legislation.

## Public bodies' procurement strategies are of varying quality

- 4.2 We found that most of the public bodies we sampled had a procurement strategy but there were exceptions. For example, although the Arts Council for Wales has a handbook for its procurement procedures, it does not have a procurement strategy. In the case of the Welsh Government, while it does not currently have a strategy covering procurement across the whole organisation, its arrangements require a 'Procurement Strategy Risk Assessment' exercise for any procurements over £25,000 which should set out how the procurement will take into account relevant policy and legislation. The Welsh Government plans to produce a new procurement strategy covering the whole organisation during 2017.

4.3 A procurement strategy should set out the role of the procurement function in securing and optimising value for money along with underpinning actions and associated performance indicators. We reviewed 18 procurement strategies from across various sectors and found that some had not been reviewed for several years. We also found a wide variance in the extent to which they set out clear objectives and reporting mechanisms, coverage of current issues and relevant legislation and evidence of the use of spend analysis. For example:

- it was not always clear when strategies had last been reviewed. Two of the strategies we reviewed dated back to 2012. Another strategy stated that the procurement rules referred to were last reviewed in February 2006.
- some strategies specified key performance indicators whilst others outlined they were in development or would be reported separately.
- only one strategy referred to the use of spend analysis information to inform their strategic approach to procurement.
- only one strategy specified financial savings targets. Of the remaining strategies reviewed, around half specified an intention to report on cashable savings.
- although three quarters of the strategies referred to wider benefits, there was a mix between those strategies where there appeared to be a clear commitment to benefits management and those that just made reference to them and a recognition that they could be built into contracts where relevant or appropriate to do so.
- six of the 18 strategies referred to the Wales procurement policy statement 2015, whilst four referred to the 2012 procurement policy statement. The remaining eight strategies made no reference to either procurement policy statement.

## Previous Welsh Government sponsored Procurement Fitness Checks showed a lack of overall maturity across the public bodies assessed, but further fitness checks are planned

There are no formal national indicators for public procurement in Wales but Procurement Fitness Checks in 2013-14 provided a snapshot of how some individual bodies were performing at that time

- 4.4 The Welsh Government's Public Procurement Policy Statement 2012 committed it to developing a 'maturity model' against which the governance and management of procurement activities could be measured across public bodies. The Welsh Government subsequently developed and funded the roll-out of Procurement Fitness Checks. In the absence of formal performance indicators, the Welsh Government relies on spend analysis, available data through sell2Wales, estimated savings and the findings of the Fitness Checks to assess the effectiveness of public sector procurement in Wales.
- 4.5 Consultants appointed by the Welsh Government completed the first round of Fitness Checks during 2013-14. The Fitness Checks covered 22 local authorities, NWSSP and eight higher education institutions. They were completed through an on-line survey questionnaire and face-to-face and telephone interviews. During our own fieldwork, seven other public bodies reported that they had carried out their own fitness checks on a voluntary basis. We have focussed our analysis on the Welsh Government-funded fitness checks.
- 4.6 The appraisers gave each public body that underwent a Fitness Check a percentage score which applied to a 'maturity rating' ranging from 'Non-conforming' (Level 1) to 'Advanced' (Level 4). Where necessary, the Fitness Checks recommended actions for improvement which the appraisers presented to senior management at each public body, with a copy provided to the Welsh Government.

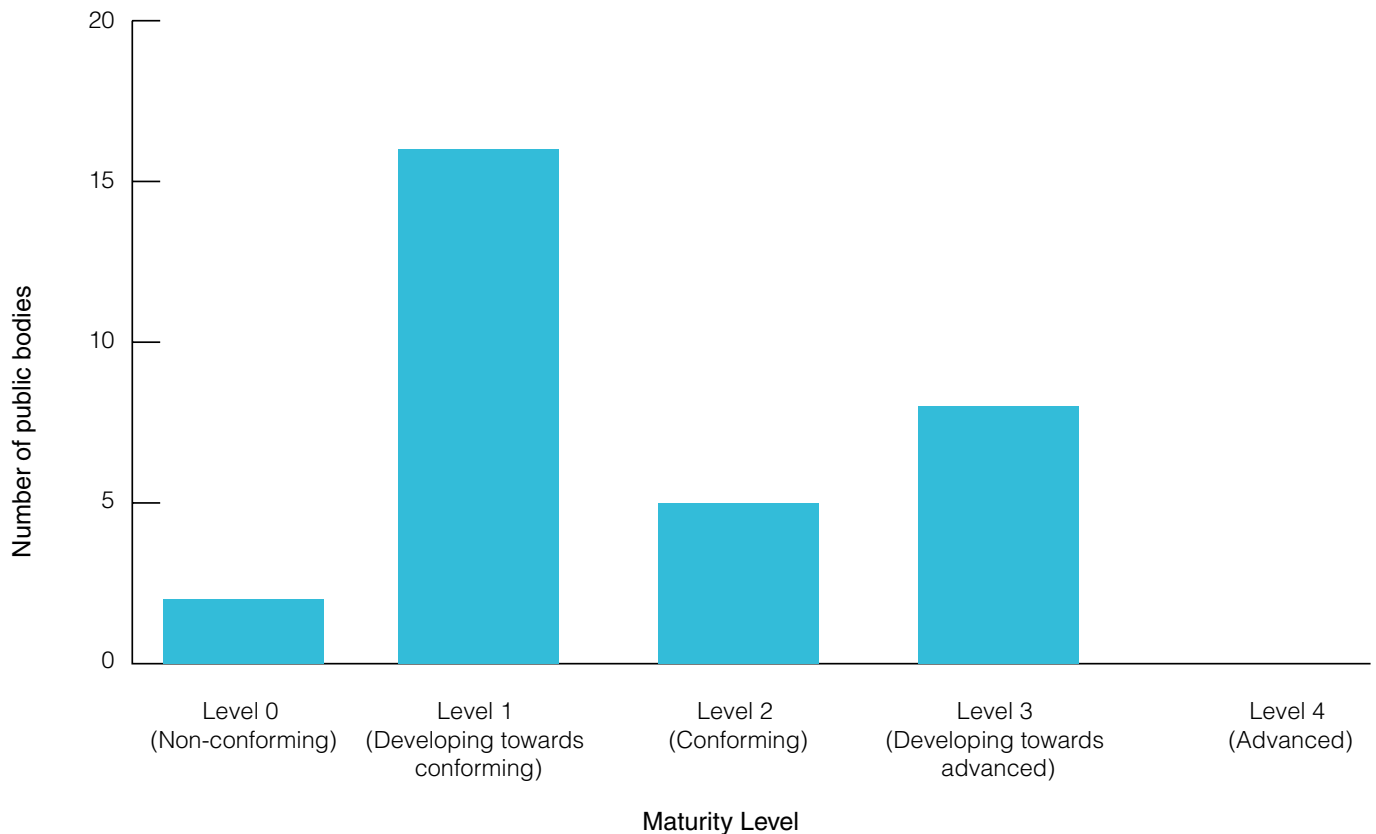
4.7 The Fitness Checks looked at criteria such as leadership and governance, strategy and objectives, defining the supply need, collaborative procurement, contract and supplier management, key purchasing processes and systems, people and performance management. However, although the same criteria were examined, NWSSP and higher education fitness checks were carried out by a different contractor by asking some differently phrased questions and the assessment tool was subsequently amended after the assessment process began. The methodology to make the assessments also differed, with some public bodies receiving an in-depth visit and others assessed through a telephone conversation. This has raised questions over the robustness of the fitness checks (paragraphs 4.19 and 4.20) and limited the ability to benchmark.

**None of the public bodies assessed by the Fitness Checks were operating at an 'advanced level', with the majority at the 'developing towards conforming' level**

4.8 Figure 9 summarises the findings from the 2013-14 Fitness Checks, with the full results at Appendix 3. Overall, the appraisers assessed the majority of public bodies as being at the second lowest level, 'Level 1: Developing towards conforming'. There were two bodies assessed at the lowest level of maturity (non-conforming) – the Isle of Anglesey County Council and Wrexham Glyndŵr University.



Figure 9: procurement fitness checks 2013-14 – levels of maturity of public bodies<sup>41</sup>



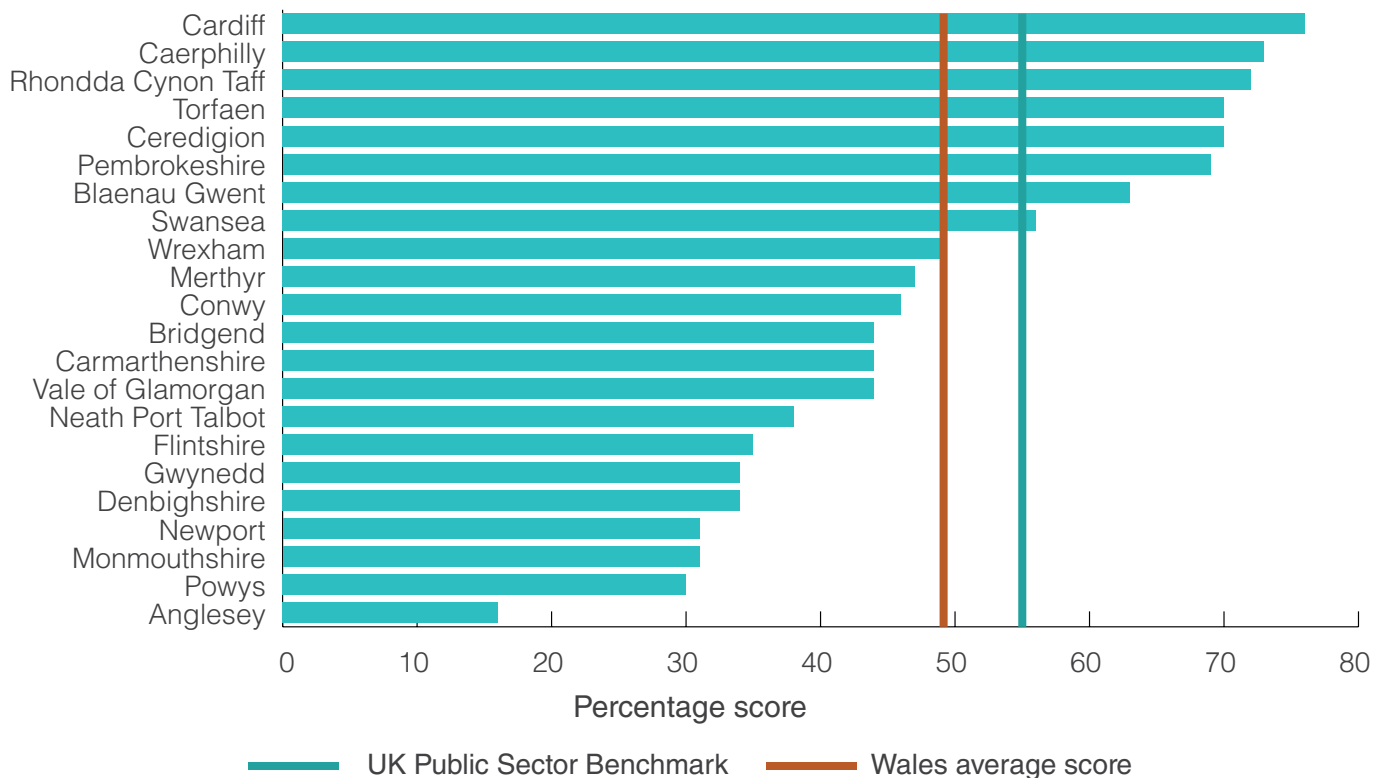
Source: Welsh Government

- 4.9 The particular area of weakness at Isle of Anglesey County Council was around the lack of central organisation for procurement activities with procurement strategies being led by individual directorates. The Council also acknowledged an historical lack of investment in the area of procurement as a contributory factor to the immaturity of the procurement function.
- 4.10 The main area of weakness in Wrexham Glyndŵr University was ‘people’ where the university scored zero, based on the fact that there was no dedicated procurement resource to manage its £8 million procurement spend. For staff who procured goods, services and works on behalf of the University, there was no assessment of procurement competency and no training provision.

<sup>41</sup> We did not include seven public bodies that voluntarily carried out a Procurement Fitness Check because they were done through a self-assessment rather than independently.

4.11 The Welsh Government benchmarked the local government sector against a UK Public Sector Benchmark for seven of the eight criteria assessed (Figure 10)<sup>42</sup>. The overall average score for local authorities in Wales on these criteria was 49%, below the UK public sector benchmark of 55%, and with 14 local authorities scoring below the benchmark level. There are no benchmarks for other sectors. While not directly comparable, the Welsh Government believed that the results of the 2013-14 fitness checks indicated that there had been some improvement in procurement capability in local government since the findings of the McClelland Review in 2012 (paragraph 1.7).

Figure 10: Welsh local authority Procurement Fitness Check scores compared with UK Public Sector benchmark



Source: Welsh Government

42 The UK Public Sector Benchmark did not include the 'people' category which was included in the Welsh Government funded procurement fitness checks. The UK Public Sector Benchmark was developed by the Improvement and Development Agency (IDeA) procurement fitness programme.

## Most organisations reported that they had taken some action to address the Fitness Check findings but with relatively few having undertaken a follow-up self-assessment as recommended by the Welsh Government

- 4.12 We asked public bodies whether they had produced an action/ implementation plan in response to their Welsh Government Fitness Check. We found that of the 28 public bodies that answered the question, 27 reported that they had or were taking action to produce an action/ implementation plan to address areas of weakness. Of the 27 public bodies, one stated that it had completed its action plan, 15 stated that the action plan was ‘very advanced’ in the production of an action plan and 11 had taken ‘some’ action. The remaining public body had taken no action. The Welsh Government was able to confirm receipt of action plan updates from 12 local authorities and the higher education sector.
- 4.13 We also asked the organisations that underwent a Fitness Check whether they had completed a self-assessment as a follow-up, as recommended by the Welsh Government for local authorities in particular. We found that that of the 30 organisations that answered the question, only six had completed a self-assessment. The Isle of Anglesey County Council confirmed that it had developed an action plan and carried out a self-assessment. The Council considers that its performance has improved. One of the main actions the Council took in response was to invest in up-skilling procurement staff and adopting a more planned approach to procurement ([Case study 4](#)). Wrexham Glyndŵr University confirmed that it had taken some action to address areas of weakness but that it had not completed a self-assessment to measure progress.

### Case study 4 – Isle of Anglesey County Council response to procurement fitness check

Following on from the Fitness Check, the Council has set up a 3-year corporate project - ‘Improving Procurement’, commencing in January 2015. The project includes updating its Corporate Procurement Strategy and procurement policy, as well as developing a new contracts management strategy and staff procurement handbook. The project also includes in-house training on the Internal Contract Procedure Rules and the revised EU procurement Directive. The Council is also rolling out training on contracts management to ensure that contracts are compliant with relevant regulations. The project also included the development of an internal website to make it easier for staff to find standard documents relating to procurement.

Source: Wales Audit Office survey of NPS members

4.14 Three local authorities noted that they were awaiting formal notification from the Welsh Government on the format that self-assessments should take. The Welsh Government plans to issue an updated approach to the Procurement Fitness Check programme as part of a future programme for procurement, to ensure that public bodies provide results that are in identical format to allow for benchmarking.

### The Welsh Government identified common themes from the Fitness Checks, although some of the activity that had been planned to support improvement has not yet progressed

4.15 Based on the Fitness Checks, the Welsh Government identified common areas for improvement ([Figure 11](#)). The most common recommendations were around the need for senior leader engagement in procurement and the need to improve the use of e-procurement. The Welsh Government is providing some continued support for action on e-procurement ([paragraphs 4.46 to 4.53](#)).

4.16 The NPS Collaborative Spend Analysis Project ([paragraph 2.3](#)) has provided public bodies with the opportunity to upgrade their access to the data available to inform their procurement strategies. This upgrade allows for more in-depth analysis, customised reporting, access to previous years' data to facilitate trend analysis and additional user-licenses. However, only four public bodies had spent the £2,350 to upgrade. All of these public bodies had already achieved a Fitness Check assessment of 'developing towards advanced'. In 2016-17, the Welsh Government paid for all NPS members to benefit from the upgrade. The four public bodies that had funded the upgrade themselves received a rebate.

**Figure 11: main themes from Procurement Fitness Checks commissioned by the Welsh Government**

<b>Recommendation</b>	<b>Number of instances (out of 31)</b>
Ensure Senior Leaders are involved in forward strategic planning	18
E-procurement support and systems update	18
Category management strategies in place/being developed	17
Spend data analysis and intelligent use of information	16
Formalise key performance indicators, monitoring and reporting processes	16
Increase collaboration and use of frameworks	15
Improve contract, supply chain and supplier management/engagement	15
Sharing of best practise by exemplar organisations – networking and mentoring	14
Develop/review procurement profession – develop staff both central and devolved	14
Performance monitoring and improved customer/supplier feedback	14
Improve cross-departmental working	13

Source: Welsh Government

- 4.17 When the Welsh Government planned the implementation of Fitness Checks, it intended to provide on-going support for improvement through a 'Procurement Development Service'. The Welsh Government intended to link this support to national improvement themes identified by the Fitness Checks. Several public bodies reported to us that they had received direct support from the Welsh Government following their Fitness Check. However, the Welsh Government deemed the Procurement Development Service unaffordable and is currently developing plans on how it can better provide support for public bodies' procurement activities through a proposed 'Programme for Procurement'.
- 4.18 The Welsh Government analysed the results of the Fitness Checks to identify organisations which achieved top scores against each criteria and made initial plans for these top scoring organisations to champion elements of the Fitness Check maturity model. For example, there were ten organisations potentially able to assist other public bodies looking to strengthen their approach to 'Clear leadership of procurement activity in line with the Welsh Procurement Policy Statement'. However, the Welsh Government has yet to take forward this action and has now referred it on to the Procurement Policy Development and Delivery Group<sup>43</sup>.

### Some public bodies have raised questions over the robustness of the last round of procurement fitness checks, with the Welsh Government planning to roll out a more evidence-based programme of checks

- 4.19 In response to our survey, most of the public bodies that had been through the previous Fitness Check process indicated that they had found it at least moderately useful. However, a number of organisations told us that they questioned the methods employed in carrying out the Fitness Checks and therefore the evidence base and robustness of the findings. Some of the issues raised in our survey and interviews included:
- due diligence was not carried out on the evidence collected as part of the process; and
  - insufficient time was allocated to Fitness Checks to enable a sufficient understanding of the procurement activities of the organisation, for example, some organisations had a one day visit whilst others had only a telephone call.

<sup>43</sup> The Procurement Policy Development and Delivery Group is a group of public sector procurement practitioners which reports to the Procurement Board.

4.20 The Welsh Government is aware of some of the weaknesses of the previous round of Fitness Checks and is making changes as part of a new round of assessments which will form part of a new Programme for Procurement, following consultation. A clearer timeframe for completing the fitness checks will emerge from this consultation<sup>44</sup>. For example, the Welsh Government is placing greater emphasis on an evidence-based approach supported through self-assessment. Pilot testing of the revised approach has helped identify some further opportunities for improvement.

### Public bodies have experienced several notable procurement failures and our audit work continues to identify examples of other weaknesses in procurement arrangements

4.21 A number of public bodies have experienced some notable procurement failures in recent years, resulting in the need for further improvement action. Examples include the Welsh Government itself, individual NHS bodies and NWSSP (Appendix 4). These examples have highlighted issues of concern on areas such as tender evaluation and contract management.

4.22 During our regular audit work, we have also identified various procurement issues around non-compliance with standing orders and financial instructions across a range of public bodies that we audit. For example, where contracts were being let without competition or testing the market, contract extensions made without approval and standing orders not updated to reflect the latest legislation position. These examples and the cases highlighted in Appendix 4 need to be considered in the context of the overall volume of procurement activity undertaken each year by public bodies.

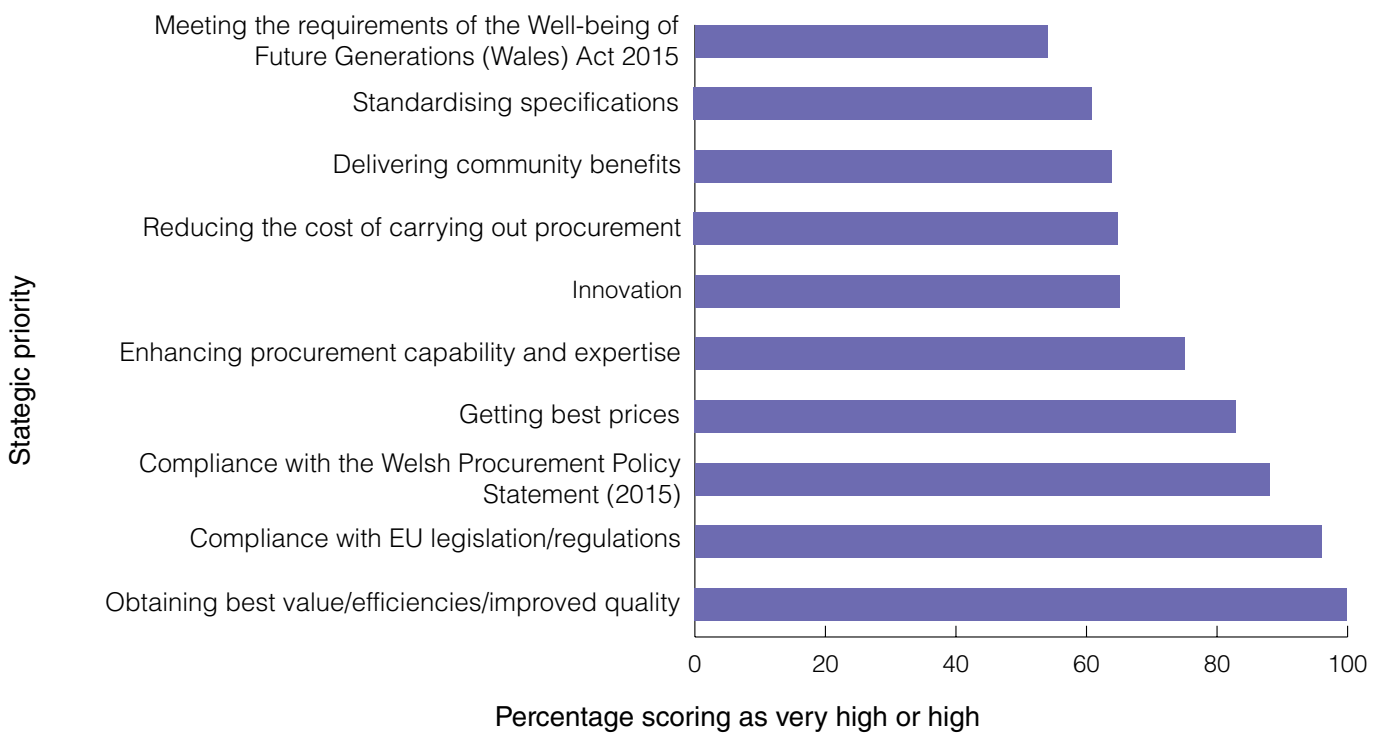
<sup>44</sup> The Welsh Government is proposed that the next round of checks will encompass the Welsh Government itself, the NPS, local government, NWSSP and higher education.

## Public bodies face challenges in balancing potentially competing procurement priorities and in responding to new legislation and policy

### Balancing priorities

4.23 As part of our survey, we asked public bodies to indicate the priority they attached to ten issues relating to their procurement activity in 2016-17, reflecting various legislative and policy requirements. All of these areas were ascribed at least 'moderate' priority by most organisations, although the extent to which they were seen as high or very high priorities varied (Figure 12).

Figure 12: public bodies' reported prioritisation of various procurement-related issues



Note: those scoring high/very high on in respect of the Well-being of Future Generations (Wales) Act 2015 included eight higher or further education institutions despite them not having specific obligations under the Act.

Source: Wales Audit Office survey of NPS members



4.24 However, the feedback we received identified a number of difficulties faced by public bodies in balancing these priorities:

- dealing with UK and Welsh policy – for example, one Police force told us that it faced difficulties balancing the requirements of the Home Office with Welsh procurement policy, in particular the duplication of requirements for advertising contract opportunities;
- balancing the need for sustainable procurement and delivering community benefits with cost reduction – some bodies expressed concern that procuring sustainable goods, services and works often drove up the price and in contrast, polices to obtain lower prices often meant that that goods had further to travel;
- using local employers to help develop the local economy and reduce carbon emissions – even if this meant paying a slightly higher price than could be achieved through a national framework ([paragraph 3.4](#)); and
- delivering numerous strategic priorities and wider policy aspirations through procurement with a reducing level of resources brought on through budget pressures – to mitigate some of these issues, Cardiff Council has set up a Local Authority Trading Company ([Case study 5](#)).

### Case study 5 – Cardiff Council Local Authority Trading Company

Cardiff Council established its Commissioning and Procurement Service in 2011 to support delivery of its Commissioning and Procurement Strategy 2011-2015 which aimed to improve the way in which the Council managed procurement and drive a more commercial mind set and approach.

However, budget pressures have meant that the Commissioning and Procurement Service has had to develop an approach to prevent job losses and ensure that the Council can preserve skills, expertise and knowledge to meet its strategic procurement requirements, including in response to the Wales procurement policy statement. To mitigate this, the Council developed a business case to establish a local authority trading company to deliver services to public and private sector organisations. The trading company will sell a broad range of procurement and commercial services covering advice, guidance and support with a focus on delivering improved value for the public sector and improving the capability of the organisations they work with. The company started trading on 1 April 2017.

## The Public Contracts Regulations 2015, Modern Slavery Act 2015 and Well-being of Future Generations (Wales) Act 2015

- 4.25 The Public Contracts Regulations 2015 ([Box 1, Part 1](#)) introduced some major changes to the way in which public bodies procure works, goods, services and works. Public bodies are expected to observe the principles of the Public Contract Regulations for all purchases, irrespective of value. We asked public bodies whether they were taking action in response to these changes in legislation. Of the 68 public bodies that answered the question, 58 said they were taking action such as updating procurement policies and procedures and awareness training.
- 4.26 Fewer organisations, 38 of 68 responding to the question, indicated that they were taking specific action in response to the Modern Slavery Act (2015) ([paragraph 1.6](#)). Again, the sort of actions described included updated policies and training. However, they also included action to identify high risk procurement categories and suppliers; and updating contract terms and conditions and tendering documentation. In response to the Act, the Welsh Government has also developed a public procurement code of practice. The code supports the development of a more ethical public sector supply chain. It is aimed at ensuring that those involved in supply chains are able to access fair work and conditions of employment.
- 4.27 At the time of our survey, just over half of the public bodies responding to our survey ascribed high or very high priority to meeting the requirements of the Well-being of Future Generations (Wales) Act 2015 ([paragraph 1.6](#)). There has been a wider encouragement for bodies not named in the Act to consider how they might nevertheless respond to it. For example, even though the Act does not place specific requirements on further and higher education institutions, eight of these institutions still indicated that they saw meeting the requirements of the Act as a high or very high priority for their procurement activity. Of the 41 public bodies responding to our survey that are bound by the Act, 29 (71%) indicated that they saw it as a high or very high priority for their procurement activity.

4.28 We also asked public bodies if they had or were planning to take action in a range of areas in response to the Well-being of Future Generations (Wales) Act in relation to procurement (Figure 13). In general, we found that a minority of public bodies had already action, but many were planning to take action. However, in the three specific areas we asked about, between 18% and 40% of public bodies were not planning to take action and only 26% pointed to any action taken or planned in other respects. Examples of action that public bodies were planning to take or had taken included:

- Natural Resources Wales' Procurement Strategy 2017-2021 will include work with internal departments to ensure a coordinated approach to the establishment of well-being goals for the organisation;
- Cardiff Council's new Procurement Strategy (2017-2020) places an increased emphasis on delivering social value and maximising economic, social, environmental and cultural well-being and the Council is currently developing a Socially Responsible Procurement policy which will cover the requirements of the Act;
- procurement staff in Cardiff Council are liaising with corporate colleagues who are leading on the Council's delivery/compliance with the Act – some staff training has already been undertaken and staff have attended national events around implementing the duties; and
- Wrexham County Borough Council's Strategic Procurement Lead and Senior Climate Change and Sustainability Officer have discussed how factors already embedded in procurement processes – such as community benefits and engagement with the local supply base – can be further enhanced.

Figure 13: actions in response to the Well-being of Future Generations (Wales) Act 2015

	Number of public bodies responding	Action taken (%)	Action planned for 2016-17 or 2017-18 (%)	Action planned further in the future (%)	No action planned (%)
Staff training to increase understanding and knowledge	66	20	46	11	23
Reviewing your organisation's track record on sustainable procurement and any key lessons learnt	67	9	46	27	18
Integration into personal objectives for staff who are procuring goods and services or managing contracts	67	7	40	12	40
Other specific initiatives	64	3	22	3	72

Note: These figures include responses from public bodies – including higher and further education institutions – that are not directly bound by the Act.

Source: Wales Audit Office survey of NPS members

4.29 Some public bodies told us that they would welcome guidance from the Welsh Government on how to embed the Act into their procurement strategy and everyday procurement activities. With a view to providing guidance for public bodies, the Welsh Government and Future Generations Commissioner's office are currently working together to identify areas of work they may take forward over the next few years, including:

- testing how the Act can be embedded on purchasing food;
- working with three local authorities (Ceredigion, Monmouthshire and Torfaen) and South West Wales Fire and Rescue Authority on how to incorporate the Act into procurement activities; and
- identifying gaps in the Wales-based supply market through in-depth analysis of the data provided through the NPS Collaborative Spend Analysis project (paragraphs 2.3 to 2.9).

### The Wales Procurement Policy Statement and measurement of community benefits

4.30 At the time of our survey, public bodies generally rated compliance with the 2015 procurement policy statement as a high or very high priority. We also asked public bodies if they were taking specific action in response to compliance with the 2015 procurement policy statement. Of the 68 public bodies that answered the question, 59 were taking specific action. The most common action was public bodies updating their internal procurement strategies and policies to reflect the content of the procurement policy statement. Other action included investment in procurement skills and capability, improving e-procurement tools, providing better guidance on procurement for staff and changes to internal procurement.

4.31 Our survey and follow-up interviews suggest that public bodies are commonly delivering and monitoring community benefits, a key part of the procurement policy statement. The procurement policy statement recommends capturing community benefits for all contracts. For construction or infrastructure related procurements valued at more than £1 million, the 2015 procurement policy statement recommends that public bodies use the Welsh Government's measurement tool. The Welsh Government views these projects as more likely to bring benefits to recruitment and training and supply chains.

- 4.32 Common use of the measurement tool allows the Welsh Government to aggregate the results. Between 2010 and 21 May 2017, the Welsh Government monitored the results of 310 projects which used the toolkit. Those projects had a combined worth of £1.4 billion. The Welsh Government reported that the 310 projects had created 2,116 job opportunities, over 45,000 weeks of training, and with 83% of the expenditure being reinvested in Wales on business and salaries.
- 4.33 We found that, in general, public bodies are focusing their monitoring activity on larger construction projects. However, some public bodies are nevertheless including, or at least considering, community benefits clauses for all contracts. For example, Ceredigion County Council has adopted a policy of reviewing all contracts for the appropriateness of including community benefits clauses, irrespective of value and where appropriate is monitoring and capturing the benefits.
- 4.34 Other public bodies are applying a community benefits approach for contracts above their own defined thresholds, as low as £25,000 in some cases. Cardiff Council has set a slightly higher threshold, with a requirement that departments complete a Procurement Plan for all procurements above £150,000 for goods and services and £1 million for works and asks whether community benefits can be delivered from that particular procurement.
- 4.35 We also found that public bodies were taking forward a range of other initiatives with regard to community benefits:
- the National Assembly for Wales Commission, Bridgend County Borough Council, Cardiff Council and Pembrokeshire County Council have or will be nominating community benefits champions; and
  - Caerphilly County Borough Council advised that it has developed its own guidance and toolkit for all contracts irrespective of cost.
- 4.36 As part of the consultation on the introduction of legislation on public procurement activity in April 2016, the Welsh Government asked for opinions on whether the Welsh Public Sector should be under a legal duty to apply any guidance issued by the Welsh Ministers in relation to community benefits. None of the responses from public sector bodies supported the introduction of a legal duty, with public bodies arguing that they should have discretion to determine their own community priorities and approaches. Several respondents commented that to mandate the use of community benefits clauses through separate legislation is not required given the requirements of the Wellbeing of Future Generations (Wales) Act 2015. As noted in [paragraph 1.10](#), the Welsh Government is developing further guidance to align the community benefits approach with the Act.

## Despite some investment by the Welsh Government, public bodies continue to have problems in recruiting and retaining qualified procurement personnel

### Public bodies report on-going issues with recruitment and retention

- 4.37 Owing to its technical nature and the need to comply with legislation and regulations, the recruitment and retention of suitably qualified procurement staff by public bodies is essential. The most widely used and recognised procurement qualification is through the Chartered Institute of Procurement and Supply<sup>45</sup> and is one of the main measures the public bodies uses to determine the level of competency and expertise in their procurement teams.
- 4.38 Our survey of public bodies identified several long standing issues with the recruitment and retention of procurement staff. NWSSP reported that this was a particular issue in the health sector. In evidence to the Enterprise and Business Committee in June 2015, an official from the NHS Shared Services Partnership said that ‘in the wider public sector, we have a huge problem in the recruitment and retention of professional procurement individuals’ and that the problem has existed ‘for a number of years, and it’s not particular to Wales’<sup>46</sup>.
- 4.39 In 2012, Cardiff University reported<sup>47</sup> that in relation to procurement, there is ‘a chronic skills deficit at the heart of the public sector in Wales’. It also said that the ‘scale of the current skills deficit in the public procurement profession in Wales can be illustrated by a simple good practice rule, which recommends that every £15 million of public spending should equate to one qualified Chartered Institute of Purchasing and Supply manager’. The report stated that ‘on the basis of this rule, we are some 174 professionals deficient in the Welsh public sector’. The Welsh Government has noted that the figures suggested by the report do not take into account where membership of the Chartered Institute of Purchasing and Supply may have lapsed. The procurement policy statement recommends that there should be a minimum of one procurement professional per £10 million of procurement expenditure across the wider public sector.

45 The Chartered Institute of Procurement and Supply (CIPS) is a global organisation serving the procurement and supply profession. The organisation promotes best practice and provides a wide range of services for the benefit of members and the wider business community including procurement qualifications.

46 Oral evidence at the Enterprise and Business Committee, 17 June 2015.

47 Morgan, K. 2012, **Values for Money**, Cardiff University

- 4.40 Of particular concern to the public bodies we surveyed was the loss of procurement expertise from public bodies to public buying organisations such as the NPS and the Crown Commercial Service. Welsh public bodies also reported losing procurement staff to other UK government bodies and agencies located in Wales, such as the Intellectual Property Office, Office of National Statistics and DVLA. Public bodies in Wales face competition from other UK government bodies and agencies where there is a commitment to increase the commercial capabilities of the civil service through the Government Commercial Function<sup>48</sup>. In the case of the NPS, it operates under Welsh Government terms and conditions which offer an additional allowance for having a Chartered Institute of Procurement and Supply qualification, a benefit which is not offered in other sectors.
- 4.41 Procurement consortia and public buying organisations focus on common and repetitive spend which, public bodies point out, should allow their procurement staff to concentrate their efforts on more complex, higher value and higher-risk procurements. However, some public bodies report that it is their more experienced and qualified staff that have moved on and who would otherwise have taken the lead on these more complex procurements.

<sup>48</sup> The Government Commercial Function supports a cross-government network of around 4,000 civil servants involved in procuring (or supporting the procurement of) goods and services to develop the knowledge and skills needed to compete successfully in commercial environments on behalf of the government



Through the part EU-funded Transforming Procurement through Home Grown Talent programme, the Welsh Government invested in a trainee programme which has had some success in developing more procurement capability

4.42 In order to address some of the recruitment and retention issues, in 2010, the Welsh Government established the Transforming Procurement through Home Grown Talent programme (Box 8). The programme aimed to raise procurement skills and competencies across Welsh public services and increase awareness of the value of these skills to support the challenge of delivering more for less.

#### **Box 8 – Transforming Procurement through Home Grown Talent**

Transforming Procurement through Home Grown Talent was an £11 million programme which ran between 2010 and 2015, supported by £5.7 million from the European Social Fund Convergence Area Programme. Its purpose was to raise procurement skills and competences across the whole of the Welsh public sector and increase awareness of the value of these skills.

The programme was managed by the Welsh Government and included five strands of activity:

- leadership;
- training;
- the Trainee Procurement Executive Programme;
- funding for e-procurement projects; and
- funding for innovation projects.

4.43 An evaluation of the programme found that it achieved most of its targets,<sup>49</sup> in particular:

- good practice ideas and new tools and guidance had been generated;
- training participants had generally improved their knowledge and skills;
- 25 of the 28 trainees involved in the Trainee Procurement Executive Programme had gone on to work in professional procurement roles, 15 of these roles were in the Welsh public sector;
- many trainees had the competencies and experience to progress into more senior procurement roles – one of the trainees is now the National Procurement Service’s Head of Category for Construction, Building Materials, Facilities Management and Utilities; and
- as a result of the programme more public sector organisations utilise e-procurement solutions and several had experimented with innovative procurement activities.

4.44 The 28 trainees took part in 86 placements across 33 different public sector organisations. However, the number of different staff who took part in the programme was 823 compared to the target of 1,396. The evaluation report also identified a number of issues with the delivery of the programme, including:

- a lack of clarity over the goals of the programme when recruiting trainees and host organisations;
- a slow reaction to isolated incidences of poor placement experience and insufficient action taken where reported;
- insufficient matching between trainee and placement; and
- that for the final cohort of five trainees the funding ran out before they had completed their Chartered Institute of Procurement and Supply training and placement.

4.45 In June 2015, the national Procurement Board discussed a potential follow-up to the programme, known as the ‘Procurement Skills Project’. The new project proposed to fund a series of activities around leadership, developing procurement capability in areas of key expenditure such as social care and construction, support to suppliers to improve their capability in e-procurement and establishing an exchange and internship programme for procurement staff to broaden their horizons. The Welsh Government anticipated using European funding to support the project, but the Welsh European Funding Office rejected the proposal, having assessed that it did not meet its funding criteria. The Welsh Government is currently planning how to incorporate procurement capability development into a future Programme for Procurement.

<sup>49</sup> Welsh Government., **Final evaluation of Transforming Procurement through Home Grown Talent - final report**, November 2015.

## Public bodies are increasing their use of electronic procurement tools and resources, but there are inconsistencies in take-up and application

The Welsh Government established an e-procurement service programme to help public bodies improve their procurement and although the programme has now closed, projects are being mainstreamed in public bodies

4.46 The use of electronic information and communications technology in procurement is designed to enhance the links between public bodies and suppliers, making procurement processes more efficient. The Welsh Government established the 'e-procurement service' programme (Box 9), to develop and deliver a long-term e-procurement strategy, mainly through setting-up a number of systems and services which public bodies can use free of charge. As a sub-group to the national Procurement Board, the Welsh Government also set up an eProcurement Service Board to oversee the programme. The Welsh Government reviewed the programme in 2016-17 and closed it on 31 March 2017 because the projects are being mainstreamed across public bodies.

### Box 9 – Welsh Government e-procurement service programme

**eSourcing** supports the delivery of web-based services that allow buyers and suppliers to conduct their sourcing activities online via the Welsh Government's sourcing tool, eTenderwales. eSourcing includes Sell2Wales, eTenders, eAuctions, eEvaluation and eContract and performance management. Sell2Wales is the Welsh Government's online notice publication tool, which allows buyers to run simple tenders and quick quotes, from a bank of registered suppliers.

**eTrading** is an online service that allows public sector buyers to view and order goods, services and works through a wide range of electronic catalogues.

**ePayments** – includes purchase cards as well as other ePayment solutions at no direct cost to organisations. It offers a quick, cost-effective and safe mechanism for the purchase of all goods, services and works. Suppliers also benefit from improved cash flow as payment is guaranteed between three and five days

Source: Welsh Government

## Most public bodies reported that they are using sell2Wales, the Welsh Government's online notice publication tool for contracts under the OJEU threshold, although to different degrees

- 4.47 Public bodies have a legal duty to advertise all contracts which are valued above EU thresholds in the Official Journal of the European Union, although most EU Member States also advertise opportunities through their own online tools such as sell2Wales (Box 9). However, even when contracts fall below the EU thresholds, procurement procedures should follow the general principles of European Competition law, which include: equal treatment; transparency; and non-discrimination. The main way in which public bodies can uphold these principles is through advertising public contract opportunities.
- 4.48 We asked public bodies whether they were using sell2Wales for contracts below OJEU thresholds. We found that of the 68 bodies that answered the question, 58 said they were advertising at least some of their lower value contract opportunities on sell2Wales, with 34 saying that this applied to most of their lower value contracts. Only two public bodies, Mid and West Wales Fire and Rescue Service and Newport City Council, told us that they advertise all of their contracts on sell2Wales. The four organisations that do not use sell2Wales at all for contracts below OJEU thresholds were all further education institutions. Welsh Government data shows that the number of contracts worth less than OJEU thresholds advertised on sell2Wales increased by around a third between 2013-14 and 2016-17 – from 1,319 to 1,719.
- 4.49 The Welsh Government's consultation on the introduction of legislation on public procurement activity included a question on whether the public bodies should be under a legal duty to advertise all contracts over £25,000 on sell2Wales. Most public sector respondents disagreed with this proposal, with calls for flexibility to take account of local objectives and some suggesting that the threshold was either too low or questioning the evidence base for the proposal. However, private sector responses tended to support the proposal. The Federation of Small Business told us that advertising of low value contracts was vital for smaller businesses as contracts worth around £10,000 are the mainstay of their existence. Since 2011, the UK Government has required that public bodies in England publically advertise contract opportunities above £10,000. Welsh Government data shows that in 2013-14, 683 contracts were awarded through sell2Wales to small and medium sized enterprises out of a total of 1,399 awards made to suppliers (49%). This number increased more than four-fold to 2,870 in 2016-17, but out of a total 5,774 contracts (50%).

## The Supplier Qualification Information Database (SQulD) is beneficial to public bodies and suppliers, but there are some inconsistencies in its use

4.50 In order to simplify the selection of contractors during the procurement process, the Welsh Government has developed the Supplier qualification information database (SQulD) approach. The SQulD approach is designed to make the contracting process easier for buyers and suppliers, especially small and medium-sized enterprises, by reducing the need for suppliers to provide the same basic information on their organisation each time they bid for a public contract (Box 10).

### Box 10 – Supplier qualification information database (SQulD)

The process for public bodies tendering for works, goods or services includes identifying the suitability of potential contractors through a pre-qualification stage, if required, prior to asking potential suppliers to submit a tender. Public bodies do this through asking a series of standard questions about the organisation such as its capacity and capability, insurance details and financial details. These details are stored and used for future procurements.

For public bodies, the SQulD approach provides a set of standard questions and a tool for selecting the most appropriate questions for each individual procurement. For suppliers, initially it means that they see greater standardisation of approach across the public sector in terms of supplier selection and should reduce the requirement for providing the same standard information multiple times, which can be time consuming.

Each public body sets up its own set of questions and changes can be made by suppliers when applicable, for example, if insurance details are changed.

4.51 We asked public bodies about their use of the SQulD approach. We found that of the 69 public bodies that answered the question, 51 said that they use the SQulD approach as standard (74%). However, Welsh Government data shows that in 2015-16, public bodies used the SQulD approach for only 427 of 2,933 contracts advertised on sell2Wales (15%). In 2016-17, this number reduced to 309 of 3,250 sell2Wales adverts (10%). Of the 18 public bodies that said they did not use the SQulD approach as standard, 13 of these were in the higher and further education sectors and were more reliant on their own systems where pre-qualification is not always required.

- 4.52 Public bodies told us that the SQulD approach brings a degree of consistency and standardisation to their procurement activities, as well as reducing workload for suppliers. However, there is no central SQulD dataset and each public body is asking for different information, which is still resulting in duplication of effort for suppliers. The Welsh Government's consultation on the introduction of legislation on public procurement included a question on whether the Welsh Public Sector should be under a legal duty to use the SQulD approach to supplier selection. The consultation found that 19 of the 25 respondents to the question agreed that it should.
- 4.53 To reduce the administrative burden for suppliers, in January 2016, the European Union introduced the European Single Procurement Document (ESPD) for public contracts above the OJEU threshold. The ESPD is a standardised document that potential suppliers complete to provide preliminary evidence that they are eligible for the contract opportunity. The ESPD must be provided exclusively in electronic form and is currently being incorporated into sell2Wales.

### Some public bodies are making use of Dynamic Purchasing Systems to enhance their procurement

- 4.54 We found that several bodies are starting to take advantage of the use of Dynamic Purchasing Systems (**Box 11**) to enhance their procurement capabilities and improve value-for-money. For example, Torfaen County Borough Council have used a Dynamic Purchasing System for its domiciliary care provision since May 2013. The Dynamic Purchasing System has given the local authority the advantage of developing a more level playing field between suppliers while stimulating a competitive market and introducing 'real time' quality scores when brokering packages of care from the market. Cardiff Council has made significant savings by using a Dynamic Purchasing System to purchase passenger transport services (**Case study 5**).

#### Box 11 – Dynamic Purchasing Systems

A Dynamic Purchasing System is a completely electronic tendering process for the selection of suppliers who meet a set of minimum service requirements. A Dynamic Purchasing System is similar to a framework agreement, but during the life of the Dynamic Purchasing System, new suppliers may join the system if they meet the minimum service standards.

The new European Union Directive on public procurement has made it easier for public bodies and suppliers to use Dynamic Purchasing Systems. For example, public bodies no longer need to publish a further simplified OJEU advertisement each time they wish to award a contract under a Dynamic Purchasing System and the default 4-year limit on the duration of a Dynamic Purchasing System has been removed.

## Case study 5 – Cardiff Council is making financial savings through the use of a Dynamic Purchasing System

Cardiff Council spends nearly £30 million each year on passenger transport contracts. The Council traditionally allocated the contracts using a standard framework agreement, with 31 providers operating 500 daily routes. Once the Council had let the framework, new suppliers were locked out of the agreement for its four year duration.

The Council identified home-to-school routes as an area to target for financial savings whilst at the same time, providing greater opportunities for new suppliers and to improve the quality and reliability of the service. After visiting other local authorities, officers agreed that the best sourcing solution to achieve the objectives was to introduce a Passenger Transport Dynamic Purchasing System.

The Council launched the Passenger Transport Dynamic Purchasing System in June 2014 following a series of 'meet the buyer' events. Over 60 local providers successfully registered on the Dynamic Purchasing System within weeks of its launch.

The Council divided the contracts into four lots: journeys for taxis with regular drivers; vehicles with 8-17 seats; and vehicles over 17 seats. The council used electronic auctions to source the routes, a process which involved the submission of an initial bid from the supplier prior to a one-hour electronic reverse auction where suppliers could bid for routes and compete with other suppliers.

Cardiff Council has achieved annual savings of £588,000 through the new approach compared to using the previous framework.

# Appendices





# Appendix 1 – Audit methods

## The overall scope of our work

Our examination focussed on whether there is evidence that current procurement arrangements in Wales are helping to deliver value for money in public spending and are fit for the future.

We focused most of our data collection and analysis on the 73 member organisations of the National Procurement Service (NPS). These bodies were the 22 Welsh local authorities, 14 further education institutions, ten NHS bodies, nine higher education institutions, nine Welsh Government Sponsored Bodies, four police authorities, three fire and rescue authorities, the National Assembly for Wales Commission and the Welsh Government.

We considered relevant information collected through their own regular audit work at individual public bodies, although the Auditor General for Wales is not the external auditor for further and higher education institutions. We have not examined the regularity or propriety of individual procurements as part of this work. However, auditors will scrutinise individual procurements as part of their audit work where specific concerns are identified.

## Survey of NPS members

Between June and September 2016, we surveyed the 73 NPS members and received a 97% response rate. We asked public bodies for their opinion on:

- strategic focus for procurement;
- procurement fitness checks;
- community benefits;
- use of e-procurement;
- use of procurement consortia relevant to their organisation (HEPCW, NPS and NWSSP);
- other collaborative procurement arrangements; and
- how public bodies were dealing with issues such as the well-being of Future Generations (Wales) Act and the Modern Slavery Act in the context of procurement.

While all public bodies were asked for their opinion on NPS, higher education institutions and health bodies were also asked the same questions on HEPCW and NWSSP respectively.

The Royal Commission on the Ancient and Historical Monuments of Wales and the University of Wales Registry are members of the NPS but elected not to take part in our survey because their overall procurement spend is minimal and they did not use NPS frameworks in 2015-16.

Where necessary to clarify answers and to gain further information and case studies, we followed up on survey responses either by email, telephone or face-to-face interview. We sought views from the national Procurement Board on the design of the survey and discussed the survey findings with the Board in November 2016.

### **Analysis of NPS Collaborative Spend Analysis Project data for 2015-16**

We analysed data provided by 53 public bodies as part of the NPS Collaborative Spend Analysis project. Public bodies voluntarily provide this data to NPS on a quarterly basis.

The 53 public bodies participating in the NPS Collaborative Spend Analysis project include 22 local authorities, ten NHS bodies, seven higher education institutions, five central government organisations including the Welsh Government and the National Assembly for Wales Commission, four police authorities, three fire and rescue authorities and two further education institutions. All 53 bodies were included in our survey as members of the NPS.

We have not compared data from 2015-16 with previous years because the number of public bodies participating in the project has increased annually since 2010-11 when the project began. For example, in 2014-15 some local authorities did not participate.

### **Analysis of procurement consortia and public buying organisations data**

We considered a range of data provided to us by the main Wales-based procurement consortia and public buying organisations – NPS, NWSSP and HEPCW – as well as use of the Crown Commercial Service by Welsh public bodies.

## Other data and information analysis

We also reviewed the following:

- Procurement Fitness Check reports;
- 18 public body procurement strategies;
- savings methodologies used by NPS, NWSSP, HEFCW, the Crown Commercial Service, Police and the former Welsh Purchasing Consortium, although we have not audited the savings reported by individual organisations.

## Interviews

- We met with individuals representing various organisations including:
- the Welsh Government, NPS, HEPCW and NWSSP;
- CBI Wales, Federation of Small Business Wales, the Construction Industry Training Board and the Engineering Employers Federation (EEF); and
- the office of the Future Generations Commissioner.

## Literature review

To inform our work, we have reviewed a range of other audit reports related to public procurement, including:

- Audit Scotland, **Procurement in Councils**, April 2014
- Audit Scotland, **Procurement in councils - Impact report**, February 2016
- National Audit Office, **Crown Commercial Service**, December 2016
- National Audit Office, **Improving Government Procurement**, February 2013
- Audit Commission and National Audit Office, **A review of collaborative procurement across the public sector**, May 2010
- Welsh Government Internal Audit reports.

## Appendix 2 – Procurement spend by category and sector, 2015-16

The category-related data below is taken from the NPS Collaborative Spend Analysis project which is funded by the Welsh Government and covered 53 public bodies for 2015-16.

The data collected through the Collaborative Spend Analysis project is based on nine categories. However, we broke down the category of 'non-common and repetitive spend into ten separate categories - adult services, arts and leisure, children's services, education, environmental, housing, financial, laboratory equipment and services, medical and healthcare and miscellaneous (paragraph 2.8). While we have used the categories provided by the Collaborative Spend Analysis project which are common across all sectors, NHS Wales Shared Services Partnership categorises procurement expenditure on a different basis.

The clearance of our report highlighted some concerns about the accuracy of the NPS Collaborative Spend Analysis data supplied initially by individual public bodies.

	Local government	Health	Central government and sponsored bodies	Further and higher education	Police and Fire & rescue	Total
	£s millions					
Construction, Facilities Management and Utilities	1138	161	270	48	51	1,668
People Services & Communications	183	462	77	10	8	740
Adult Services	751	0	0	0	1	752
Medical and healthcare	57	472	7	14	7	557
Unmapped	95	23	13	216	9	356
ICT	118	87	93	22	40	360
Fleet and transport	278	43	10	1	16	348
Professional services	184	11	109	16	23	343
Education	81	0	125	5	1	212
Children's services	165	0	1	0	0	166
Arts and leisure	84	0	4	0	0	88
Food and drink	53	20	2	2	1	78
Environmental	14	0	58	3	1	76
Financial	51	0	2	0	3	56
Miscellaneous	23	8	2	1	19	53
Corporate and Business Support Services	26	17	3	3	4	53
Laboratory equipment and services	0	45	0	0	0	45
Housing	28	0	1	0	0	29
<b>Total</b>	<b>3,329</b>	<b>1,349</b>	<b>777</b>	<b>341</b>	<b>184</b>	<b>5,980</b>

# Appendix 3 – Results of Welsh Government funded Procurement Fitness Checks

The Welsh Government funded independent Procurement Fitness Checks for local government, NWSSP and higher education institutions in 2013-14 (paragraph 4.4). The appraisers gave each public body that underwent a Fitness Check a percentage score which applied to a 'maturity rating' ranging from 'Non-conforming' (Level 1) to 'Advanced' (Level 4).

Local authority	Overall maturity rating
Cardiff	Developing towards advanced
Caerphilly	Developing towards advanced
Rhondda Cynon Taf	Developing towards advanced
Torfaen	Developing towards advanced
Ceredigion	Developing towards advanced
Pembrokeshire	Developing towards advanced
Blaenau Gwent	Conforming
Swansea	Conforming
Wrexham	Conforming
Merthyr	Developing towards conforming
Conwy	Developing towards conforming
Bridgend	Developing towards conforming
Carmarthenshire	Developing towards conforming
Vale of Glamorgan	Developing towards conforming
Neath Port Talbot	Developing towards conforming
Flintshire	Developing towards conforming
Gwynedd	Developing towards conforming
Denbighshire	Developing towards conforming
Newport	Developing towards conforming
Monmouthshire	Developing towards conforming
Powys	Developing towards conforming
Anglesey	Non-conforming

<b>Higher education institution</b>	<b>Overall maturity rating</b>
Cardiff Metropolitan University	Developing towards advanced
Cardiff University	Conforming
Swansea University	Conforming
Aberystwyth University	Developing towards conforming
Bangor University	Developing towards conforming
Trinity St David	Developing towards conforming
University of South Wales	Developing towards conforming
Wrexham University	Non-conforming
	<b>Overall maturity rating</b>
NHS Wales	Developing towards advanced

## Appendix 4 – Recent notable failures in public bodies’ procurement arrangements

Public body	Details
<p><b>Betsi Cadwaladr University Health Board</b></p>	<p>In 2012, as part of a wider review of public bodies’ procurement of consultancy services, we found that the Health Board’s arrangements for were not robust enough to ensure value for money or that the expected benefits would be realised. During the course of that work, a number of other contracts were brought to our attention that were not on the contract lists held centrally by NWSSP.</p> <p>Between March and May 2013, we worked with internal auditors to obtain and review paperwork, invoices and authorisations for all invoices received without a purchase order. Auditors concluded that the Health Board had breached the requirements of its standing financial instructions in respect of expenditure totalling £96,639.20.</p> <p>In 2015<sup>50</sup>, our follow-up work found that the Health Board breached internal controls in awarding several contracts. It breached European Union procurement rules in three cases and it was at risk in a fourth case. Inadequacies in the Health Board’s audit committee tracker tool also meant that management assurances on the implementation of our previous procurement recommendations were inaccurate.</p> <p>We carried out a further follow-up in 2016 and found that the Health Board implemented our 2015 recommendations and arrangements continue to evolve in the use of single tender waivers.</p>
<p><b>NHS Wales</b></p>	<p>In November 2014 and June 2015, Cardiff and Vale University Health Board awarded HR consultancy contracts to RKC Associates Ltd. During the course of our financial audit work, it become apparent that the award of these contracts breached public procurement rules and exposed the Health Board to unnecessary financial and reputational risk. In July 2017, the Auditor General for Wales issued a Public Interest Report<sup>51</sup> which concluded that Health Board cannot demonstrate that the contracts were awarded fairly, transparently, lawfully or that they obtained value for money.</p> <p>The contracts were awarded to address a shortfall in HR leadership capacity at the Health Board after the Director of Workforce and Organisational Development was seconded to another NHS organisation at short notice. RKC Associates Ltd were paid over £290,000 for the service provided.</p> <p>When the Director of Workforce and Organisational Development subsequently left the employment of the Health Board, a recruitment exercise proved unsuccessful in appointing a replacement because the shortlisted candidates withdrew for various reasons. While the position was not re-advertised, the then sole director of RKC Associates Ltd was interviewed and subsequently offered the position on a one-year fixed-term contract on an annual salary of £150,000. The report found that this appointment process was fundamentally compromised, lacked transparency and was poorly documented.</p>

50 Auditor General for Wales. **Procurement follow-up review Betsi Cadwaladr University Health Board**, November 2015

51 Auditor General for Wales, **Audit of Cardiff and Vale University Health Board’s Contractual Relationships with RKC Associates Ltd and its Owner**. July 2017



Public body	Details
<p><b>NHS Wales</b></p>	<p>In 2010, the predecessor of NWSSP, Welsh Health Supplies awarded a contract for Fresh Produce (fruit and vegetables) of around £3.5 million over four years. NWSSP commissioned an internal audit review of the original contract in 2015 and notified the Auditor General for Wales. The review highlighted a number of deficiencies in the award of this contract which were mainly procedural in nature.</p> <p>The review found that pricing policy adopted by the former Welsh Health Supplies caused confusion and the contract was awarded without fully resolving this with the supplier. As a consequence the pricing aspect of the contract lacked clarity from its commencement in October 2010 and throughout its duration to October 2014.</p> <p>The review also identified that Welsh Health Supplies did not comply with its own control framework for monitoring the 2010 contract. In particular, internal audit could find no evidence that WHS monitored the prices submitted by the suppliers against the terms set out in the contract.</p> <p>After receiving the review, NWSSP commissioned an in-depth internal audit review of procurement during 2015-16, a review of other contracts with similar pricing mechanisms and providing more contract management training for staff. Although a 'reasonable' assurance rating was awarded, the review found some weaknesses in the areas of compliance with policies and procedures and contract management. The review made recommendations in the areas of contract and contract extension approval, procedures for awarding single tender contracts, improving procedures around declarations of interest, and improving contract management through training and raising awareness.</p>

Public body	Details
<p><b>Welsh Government</b></p>	<p>From February 2013, the Welsh Government began procuring a replacement framework for the provision of furniture and space planning services for an agreement that was due to expire in March 2014. The value of the contract, projected over 5 years, was £12.5 million, made up of estimated spend from the 3 users of the contract; Welsh Government, National Assembly for Wales and Higher Education Funding Council for Wales.</p> <p>Only two suppliers submitted a response; one of which was the incumbent supplier. At the end of the tender evaluation process the Welsh Government awarded the contract to the incumbent supplier and both parties notified of the outcome. However, on receipt of this notification, the unsuccessful bidder informed Welsh Government that it disputed the validity of the decision and requested that the Welsh Government cancelled the award of the contract and that it restart the tender exercise.</p> <p>This resulted in legal action on the part of the unsuccessful bidder. It then became clear to the Welsh Government's internal legal team that there were a number of issues that significantly weakened Welsh Government's ability to successfully defend the claim against it. As a result, Welsh Government authorised its staff to enter into a negotiation process to avoid litigation and, as a result, the Welsh Government reached a financial settlement of £1.25 million with the unsuccessful bidder.</p> <p>Over the last few years, the Welsh Government's internal audit team looked at several other procurement issues and found improvements were needed across areas such as contract management, the procurement and management of communications contracts, tender evaluation processes and the process for procuring goods and services values at less than £25,000.</p> <p>As a result of these issues, the Welsh Government has taken a number of steps to improve its internal procurement procedures, including:</p> <ul style="list-style-type: none"> <li>• establishing a work stream under the 'Preparing for the Future' programme to establish and identify issues within the Welsh Government's procurement processes and to ensure best value for money is achieved; and</li> <li>• laying the groundwork for the development of a 'Programme for Procurement' which will include a re-organisation of the Welsh Government's Corporate Procurement Service together with a refreshed procurement strategy and set of policies and procedures</li> </ul>

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