



ADSS Cymru

Yn arwain Gwasanaethau
Cymdeithasol yng Nghymru
Leading Social Services in Wales

ASSOCIATION OF DIRECTORS OF SOCIAL SERVICES CYMRU

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Advice Note 4 – Governance

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Contents

Introduction	3
Principles and Legislation	4
Governance Framework.....	4
How do we avoid the Partnership failing and falling out?.....	5
Partnership Boards	6
Delegation and Decision Making.....	7
Regional and Local Governance Arrangements.....	8
The broader Partnership Infrastructure	10
Improving the range and quality of Management, Financial and Performance Information.....	11
How will we know it has worked once we have set it up?.....	11
Accounting Guidance	14
Consistency between Partners	15
Audit	15
Surplus and Deficit.....	16
Termination and Liability	16
Complaints	16
Consultation	16
Annex 1: Sources of Advice on Governance.....	18
Governance.....	18

Introduction

1. The requirement of corporate governance in the public sector is to ensure that it works in the wider public interest, follows proper standards of conduct, is transparent in decision making and is accountable to citizens. To ensure proper accountability for partnership activity, the governance arrangements need to be clear and should indicate the opportunity for people to influence services. It is essential for partners to ensure they have appropriate governance structures in place.
2. Effective governance arrangements should provide evidence of service improvement or where future action is required to secure improvement. It provides for shared learning to inform the development of more effective services and ultimately, better outcomes for individuals and their families. It depends upon the development of both qualitative and quantitative measures including outcomes for individuals, service outcomes, activity data and financial measures. It will be important to develop measures across the whole system.
3. The purpose of this Advice Note is to outline the key requirements concerning the governance of partnership arrangements. It will describe the principles of good governance and why it is important, together with the tools required to make it happen. It will also explore the potential contribution of Welsh Government and other partners in the development of appropriate tools, not least in relation to performance management. Annex 1 contains some definitions of governance.

Key Message – Always seek legal advice

This and other advice notes in the series, together with any attachments, should not be used as an alternative to obtain independent legal advice as appropriate. The advice notes are intended as aids to the consideration of what might be required.

4. In the past, each statutory partner has largely been required to report on its performance rather than its contribution to the performance of the whole system. In ‘*A Healthier Wales*’ⁱ the Welsh Government recognises the need for change.

“The continued integration of health and social care services, and the development of new joint models of working, are a real opportunity to take a fresh look at the ways in which the performance of health and social care systems as a whole are measured and reported....”

“To ensure we drive maximum medium-term benefit from this investment (improvement funds and transformation funds), we will ensure that planning and governance systems are aligned, as far as possible across health and social services to remove barriers to delivery of these new models of care....”
5. ‘*A Healthier Wales*’ commits to the development of a single, national health and social care outcomes approach, together with a move to joint monitoring and inspection. The scope of regulatory inspection should include the robustness of regional joint working, assurance of pooled budgeting, joint commissioning arrangements and the delivery of integrated services.

Principles and Legislation

6. Corporate Governance is about having working arrangements and management systems and structures in place to ensure that an organisation achieves what it is set up to do; in a way that complies with its rules (and those set for it by outside organisations such as the Welsh Government) together with all statutory requirements and in a way that achieves good value for money. The system of governance for the partnership needs to provide evidence to all partners that their statutory responsibilities are being fulfilled.
7. The principal legislation involving governance of local authority relationships with NHS bodies (or vice versa) is consolidated in the National Health Service (Wales) Act 2006 and set out in Partnership Regulations, (*The National Health Service Bodies and Local Authorities Partnership Arrangements (Wales) Regulations 2000*).ⁱⁱ This prescribes functions of NHS bodies and local authorities which may be subject to partnership arrangements.
8. These measures were further developed under Part 9 of the Social Services & Well-being (Wales) Act 2014, together with its accompanying statutory guidance and regulations.^{iiiv}

Governance Framework

9. Good governance has a broad remit within partnership working as this poses a unique and specific challenge for developing appropriate governance and accountability arrangements. The essence of partnership working encompasses organisations with differing interests, motivations, capabilities and infrastructure. Partnership accountability also needs to be vertical as well horizontal. Also, there has to be a balance between the need to create formal structures of governance, while nurturing and supporting the informal processes which foster creativity and innovation.
10. The aims of good governance must be to ensure that public service bodies and their individual members (whether appointed or elected) and senior officers, can provide account of:
 - The proper and efficient use of public money
 - The quality of services provided
 - Improved performance in respect of outcomes of the joint working arrangements; and
 - How these measure up against operational objectives and priorities.
11. The partners must establish proper accountability arrangements and lay these open to appropriate external scrutiny. Such arrangements will be properly documented and open to review and revision from time to time.

Key Message – Fundamental elements of good decision making

In its recent publication, *'How do you support effective system decision making?'*,^{vi} the Healthcare Financial Management Association (HFMA) provides a valuable list of lessons learnt to improve decision making. These include:

- 1. Build trust and relationships**
- 2. Agree decision making principles in a memorandum of understanding**

- 3. Ensure clarity of decision making**
- 4. Ensure transparency of decision-making arrangements**
- 5. Ensure effective engagement and communication**
- 6. Agree a shared, population-focused vision**
- 7. Ensure that the right decisions are made at the right level**
- 8. Ensure evidence-based decision making**
- 9. Develop capacity and capability for decision making**
- 10. Develop a clear assurance system.**

How do we avoid the Partnership failing and falling out?

12. The partners must be clear in their expectations formally and not anecdotally i.e. the 'what' and 'how' the partnership will be monitored and reviewed. The experience of existing partnerships and developing ones is generally that it is the lack of clarity on decision-making and accountabilities within partnerships that undermines them.
13. The agreement needs to be described structurally in terms of:
 - What we are planning to do?
 - How we will agree plans and changes?
 - How we will monitor progress on the partnership and
 - How we will review, at least annually, with regular updates, what we are achieving?
14. It is wise to create simple arrangements for this and to meet regularly to deal with performance outcomes and exceptions, whilst the host manages the day-to-day. The Part 9 Agreement (or Section 33) needs to facilitate timely decision making in order to respond to day-to-day service issues and pressures.
15. The scale of governance arrangements should be proportionate to the level of investment in the partnership. Partners must decide what form of governance best meets the local needs and circumstances; the arrangements should be proportionate to the size of the partnership and take into account the general guidance set out below.
16. Governance is probably one of the most critical elements of a partnership and yet is often one of the most complicated in design because each partner might try too hard locally to assimilate their own way of decision making into the process. The design is also a reflection of internal anxieties about change and innovation that involves others. This can then seem to engender unnecessarily complex structures for control, accountability and decision making that are seemingly harder for officers to work within than before they were in partnership. It must be remembered that the governance arrangements are not an end in themselves but are a means of helping to ensure the achievement of positive outcomes. Inappropriate and disproportionate governance structures can slow down and impede service delivery.
17. Therefore, an early critical task, alongside the preparation of the schedules on service objectives, will be to start discussions on forming an appropriate governance group that provides transparent, accountable, timely decision-making and fits with individual partners scheme of delegation.
18. At the operational level, there will need to be a broad partnership capable of developing operational plans, devising detailed schemes, and managing their implementation. These should operate at a level commensurate with existing local service planning and delivery arrangements, involving local representatives and stakeholders. The partnership

arrangement at this local, operational level, must include financial and performance management systems to ensure that the scheme/ projects deliver against their objectives, provide the outcomes agreed at the outset, are delivered within agreed budgets, and that managerial accountabilities are explicit and appropriate to the services involved.

19. At the strategic level, there must be the mechanisms to ensure that the partner authorities are fully committed to the principles of the arrangements. This will include the endorsement of the jointly developed service objectives and more detailed plans, and an agreement to the local level partnership agreements and operational management. Crucially, the partner bodies must have authorised the financial and other resources that need to be devoted to the schemes/ projects at the local level.

Partnership Boards

20. Part 9 of the Social Services & Well-being (Wales) Act 2014, formally established Regional Partnership Boards (RPBs); their constituent parts were prescribed by regulations - *The Partnership (Wales) Regulations 2015* (subsequently amended by *The Partnership Arrangements and Population Assessments (Miscellaneous Amendments) (Wales) 2019*). RPBs will be responsible for leading the partnership and integration agenda. As stated below, they will need to develop an appropriate infrastructure to deliver this agenda across all user groups, services and functions and to do so they will need to establish a range of partnership boards or joint management groups, to develop and manage these partnership arrangements.
21. In relation to Part 9 (or Section 33) partnership arrangements, the legislation does not require a particular level of accountability. For example, the use of partnership arrangements for a small resource does not require the creation of a partnership board to oversee its use. The scale of the governance arrangements should be proportional to the level of investment in the partnership. Nevertheless, for the most part, it is common practice for partner organisations to establish Partnership Boards to oversee the preparedness for the use of the flexible arrangements built into the 2014 legislation.
22. Where functions have been delegated from one partner to another (lead commissioning or integrated commissioning using a pooled budget), the partners will establish a Partnership Board or Management Group to oversee these arrangements. The lead partner will report to the Partnership Board or Management Group to provide assurance that the statutory responsibilities of both partners are being fulfilled.
23. Organisations will continue to be accountable for their functions that are part of the partnership arrangements. It is therefore crucial that from the outset, they should be clear about the aims and objectives that are intended to be achieved by the partnership.
24. Partnership Boards are an important mechanism for supporting effective governance. They provide an opportunity for the partners to meet regularly and agree on objectives, resources, performance and any urgent variations within the context of local measures for the partnership. They will receive reports on performance measuring, the impact of the partnership and whether any appropriate action requires to be taken. The Board will have an annual review process, whereby resources and next steps in business plans will be confirmed.

25. To ensure that accountability is transparent and to avoid role confusion, Partnership Agreements should include clear terms of reference to Partnership Boards and their relationship to designated executive officers and other related management groups. The terms of reference should also make clear whether members of Partnership Boards or Management Groups have delegated decision-making from councils and NHS Local Health Boards and Trusts to act on their behalf. (See also 'Delegation and Decision Making' below).
26. The establishment of a Partnership Board or Management Group would, in the first instance, need to decide how best to secure the operational interface necessary to manage the partnership arrangements. For example, a Partnership Board could be charged with:
- Setting the strategic direction for joint working by partners and bodies
 - Committing partner bodies to working together to deliver common objectives
 - Confirming budget decisions to support joint planning and funding
 - Monitoring the effectiveness of joint planning and working arrangements at local and scheme / project levels.

The Partnership Board would also:

- Receive and respond to guidance from the Welsh Government on joint planning and priorities guidance (see priorities for integration within Part 9 Statutory Guidance; and priority client groups referenced in both *The Parliamentary Review into Health and Social Care in Wales*^{vii} and in *A Healthier Wales*);
 - Influence, within the overall remit of the Board, both joint and individual service plans for each partner authority;
 - Seek to secure improved performance by partners individually and collectively;
 - Keep under review operational objectives and outcomes;
 - Monitor the proper and efficient use of public money devoted to joint services; and
 - Ensure accountability for the resources committed to joint working.
27. It is important that strategic and operational components are able to interact not just on planning but on providing and receiving reassurance on delivery against agreed direction and reporting on the same. The strategic objective of helping individuals to recover and maintain their independence needs to be supported by an appropriate range of operational services which support these objectives (e.g. reablement services). Measures need to be in place to ensure this is happening. The result must be the streamlined delivery of services and far better-quality outcomes for service users.

Delegation and Decision Making

28. Local partners will need to be clear about what decisions the Partnership Board or Management Group is able to make on their behalf. The amount of delegation to the board will need to be judged in the context of the Partnership Agreement. Once agreement has been reached, and the lead partner has taken on the functions, it will agree a protocol with the partners setting out the arrangements.

The protocol should be in writing and cover:

- What the decision-making process is, and the rights of the board to make a decision?
- Whether liabilities will be shared and if so, how that will be affected? and

- What insurance and indemnity arrangements have been made?

Regional and Local Governance Arrangements

29. To illustrate these arrangements the example of care homes for older people will be explored. The regulations and guidance issued under Part 9 of the Social Services & Well-being (Wales) Act 2014, requires health boards and local authorities to;
- Undertake a population needs assessment and market analysis to include the needs of individuals who fund / purchase their own placements. The purpose of the market analysis is to examine both demand and provision for care homes for older people.
 - Agree an appropriate integrated market position statement and commissioning strategy. These will specify the outcomes required of care homes, including the range of services required. There should also be an agreement on the methods of commissioning (for example, some services may require a block contract, step up, step down intermediate care services, respite care, etc).
 - Agree a common contract / specification.
 - Develop an integrated approach to agreeing fees with providers.
 - Develop an integrated approach to quality assurance.
 - Adopt a transparent use of resources – develop a pooled fund.
30. The purpose of these requirements is to ensure that health boards and local authorities work together to maximise their influence to shape the future development of services. This includes ensuring there is sufficient capacity and an appropriate range of good quality services to respond to the needs of people in their region.
31. Some younger people are occasionally admitted to care homes for older people and the reasons for such placements require careful scrutiny. Similarly, although homes for younger adults remain outside of this requirement, they will have residents who have continued to live there and are now over the age of 65. These are individual's homes and they must be fully involved in any decisions concerning their ongoing needs. The appropriateness of these arrangements should be taken account of in individual reviews with results used to inform the commissioning process.
32. Since the publication of the original regulations and guidance in relation to Part 9, the Welsh Government has clarified the requirement that the pooled fund for care homes for older people should be managed at the regional level. Regulation 19 (establishment and maintenance of pooled funds) has been amended by *The Partnership Arrangements and Population Assessments (Miscellaneous Amendments) (Wales) Regulations 2019*. This regulation requires partnership bodies for each of the RPB areas to make a financial contribution to the regional pooled fund. A regional-led approach should facilitate the continuing improvement agendas in relation to the report by the Older People's Commissioner for Wales (*A Place to Call Home*)^{viii}; the Flynn Review (*Operation Jasmine*)^{ix}; the implementation of the toolkit to assist all parties to provide a sustainable cost model for care homes in Wales (*Let's Agree to Agree*)^x and the implementation of the policy of Directly Enhanced Services (DES), which is designed to improve the quality of health care and multi-disciplinary support to care homes and their residents.
33. The challenge, therefore, is how to balance the requirements of regional governance with the need to ensure effective local and timely decision making as close to the individual in need of care and support as possible. Where a care home placement has been assessed as part of

the most effective means of addressing the needs and outcomes of the individual, the authorisation of that placement needs to be taken both in a timely manner and as close to the individual as possible by managers and professionals who understand the circumstances. Such an authorisation cannot afford to be delayed whilst awaiting a decision from some form of central bureaucracy that is distant from the individual. Such a situation would risk a negative impact both on the individual and their family and on other services, for example, delayed transfers of care.

34. Any system which authorises a placement also by default, authorises the expenditure on the placement and therefore makes a claim on any pooled fund. So how should the system work? The RPB is already required to develop a regional approach to undertaking a market analysis, fee setting, contracts/ specifications, quality assurance and to develop a pooled fund. The RPB will also need to ensure that it has an agreed method for determining adequate contributions to the pooled fund from each partner (see Advice Note 3 - Practicalities of Partnership Development). The agreed contributions will need to be identified and made available. The RPBs will agree the management, financial and performance information required for reporting purposes at local and regional levels.
35. Each RPB will develop a system of delegation for the authorisation of placements at the appropriate level and will make a budget available at that level. There will be a designated individual to manage this local budget. This may be at the level of a local authority or in time it could be delegated to a locality e.g. GP Cluster. Most local authorities and health boards presently have mechanisms in place for making decisions regarding placements, albeit they sometimes operate separately. These could be integrated at the local level and this could be the vehicle for the authorisation of local placements together with their funding. This will need to be facilitated by the development of appropriate information systems. The locality will report on activity, performance and expenditure in an agreed format within agreed timescales to the RPB, which will provide appropriate regional and local reports to partners. This will provide an opportunity for benchmarking within the region. If a national template for reporting is used, it will allow for benchmarking across Wales. This will also be referenced in the RPBs annual report.
36. Such a system of delegation will facilitate local decision making and provide effective governance at regional and local levels. It should also help to address any concerns about loss of control over resources and cross subsidisation. Such an approach will also serve to identify the needs of individuals which can be more effectively resolved by specialist regional services e.g. specific conditions such as head injuries.
37. The position of care homes and Integrated Family Support Services (IFSS) are somewhat different at this stage because an integrated approach has been mandated. In relation to other services or functions, the RPBs can design the most appropriate governance arrangements. It is nevertheless worth considering the merits of what should be decided at the regional and local levels. The potential for integrating services/functions was described in Advice Note 1. At the regional level, it would be helpful to agree common methodologies for undertaking market analyses and developing common reporting requirements. This would facilitate benchmarking across the region and facilitate decision making at both regional and local levels. As with care homes, it may be helpful to agree common contracts/specifications for core services alongside an integrated approach to quality assurance arrangements and approaches to fee setting. It may be possible to commission services across the region. With appropriate information, it should be possible to identify individuals whose needs cannot be met at the local level but where a regional solution may be available. For example, a region could establish a regional specialist service for people with sensory impairments or

commission a specialist nursing home resource for people with head injuries or establish a specialist regional resource for commissioning.

38. At the local level, decisions will still need to be taken about the investment and range of services. A local authority, for example, may wish to invest far more resources in extra care housing and reduce investment in care homes. The health board may wish to close a community hospital (judged as being no longer fit for purpose) and work with the local authority to establish a resource centre made up of a mix of services (extra care housing, nursing beds, day care) underpinned by a formal Partnership Agreement. The development of such a resource may have no relevance at all to other local authorities located at the other end of the region. Decisions about investment in local services need to be taken locally. This would address some of the concerns of small, Third Sector organisations, who make an important local contribution both towards supporting the well-being of individuals as well as supporting the statutory sector.

The broader Partnership Infrastructure

39. The guidance above relates to the establishment of a Partnership Board to oversee a partnership/pooled fund in relation to a service e.g. Care Homes for Older People. As partnership arrangements develop, so the infrastructure to support them will have to develop.
40. As stated above, the Social Services & Well-being (Wales) Act 2014, requires the establishment of Regional Partnership Boards (RPBs) and these RPBs can take the opportunity to develop an appropriate local infrastructure to develop partnership working and integrated service delivery. The proposed membership of the RPBs is described both in the regulations (2015 and 2019) and within statutory guidance to Part 9 of the 2014 Act. The 2019 regulatory amendments specify the minimum number of members required on the RPB and to ensure that there are representatives from both housing and education sectors. The RPB will take the lead in designing the infrastructure for the development and delivery of integrated services.
41. In establishing a partnership and pooled fund to deliver a specific service, the RPB can establish a Partnership Board or Management Group to act, on behalf of the partners, to oversee the management and development of the service. The RPBs will have inherited responsibility for a range of Partnership Boards for their Community Equipment Services established years ago, together with other Section 33 arrangements.
42. The RPBs will need to think about how they see their partnership arrangements developing over the next 5 years. They may have capacity issues if they wish to see a partnership group in place to oversee individual service areas so they may wish to group some service areas under one Management Group. They may wish, for example, to establish a Management Group to oversee all partnership arrangements in relation to services for people with learning disabilities. Similarly, they may wish to have one management group overseeing services for children and young people. In England, some Section 75 Partnership Agreements (Section 33 Agreements in Wales) are framework agreements encompassing a range of services with schedules relating to specific services.
43. Some of these Management Groups may oversee a range of services, some of which are the subject of a Part 9 (or Section 33) Agreement and some which are not. So, for example, a Management Group may have oversight for partnership arrangements in relation to commissioning services from care homes for older people, which is the subject to a Part 9 (or

Section 33) Agreement and home care services which are not. It is important to remember that whilst the Partnership Board or Management Group may have a range of stakeholders, decision making rests with the statutory partners – the health board and the local authority or local authorities, with regard to all partnership agreements.

44. This should not undermine the important contribution of Partnership Boards to the overall governance arrangements. They offer an opportunity to involve stakeholders and to enhance local community and democratic accountability. Partnership Boards have a strategic advisory function in relation to the service that the partnership has been established to provide.
45. RPBs will need to design the appropriate infrastructure in terms of management groups to support partnership working (see example of the integrated governance arrangements for Salford).^{xi} The relationship with the Public Service Boards (PSBs) will also need to be considered. This will be a matter for the RPBs, although this may benefit from further discussions between the RPBs and Welsh Government, particularly examining the appropriateness of national templates for collecting management information, which would enable benchmarking across Wales as well as within regions.

Improving the range and quality of Management, Financial and Performance Information

How will we know it has worked once we have set it up?

46. Partnerships need to have a local currency that is measurable, to capture the impact of the partnership upon the outcomes for the service users and upon the organisation's involved.
47. Many seemingly robust agreements will often be vague on some of the points of measuring performance and success of the partnerships, as opposed to control of the partnership or accountability of providers of the partnership arranged services. In the Audit Commission's report on joint financing across health and social care, "Means to an End"^{xii}, it noted:
"A desire to improve service user's experience often drives joint arrangements. Organisations can usually describe how they now work better together but often not how they have jointly improved user experience. Partnership agreements often fail to include quantifiable outcome measures and partners rarely monitor them when they do."
48. Partnerships require good quality and timely management and financial information to provide assurance that each partner is fulfilling its statutory functions. Furthermore, effective partnerships are built upon trust and confidence. Good quality management and financial information helps to build that trust and confidence.
49. The National Commissioning Board (NCB) has undertaken some detailed work designed to improve the quality of this information in relation to two specific services – Care Homes for Older People (see *Care Homes for Older People: Improving the quality of information to inform commissioning*)^{xiii} and supported living services for people with a learning disability (see and Support for Living Services for People with a Learning Disability).^{xiv} Both papers are available on the NCB website.
50. The second paper contains information required to conduct a market analysis to inform the commissioning of services from supported living services, residential care homes, specialist

nursing homes, shared lives, and specialist hospitals. This information could be prioritised and used as a means of reporting to a Partnership Board or Management Group.

51. In relation to Care Homes for Older People, the NCB initially conducted a market analysis of all care home placements of older people in Wales. It captured information from health boards and local authorities in Wales on all placements commissioned within Wales and elsewhere. This also included information on placements funded with third party contributions. It also captured information from providers (through local authorities) on placements made in Wales from public bodies outside Wales, placements funded by individuals themselves, and information on vacancies and waiting lists. The analysis encompassed younger people resident in care homes for older people but did not encompass older people living in care homes for younger adults. (This latter group were placed as younger adults and remained in their home). It also captured information on the funding and costs publicly funded placements.
52. It therefore informed the development of a very comprehensive market analysis of care homes for older people in each local authority, health board and across the whole of Wales. The market analysis is available on the NCB website.^{xv}
53. The exercise was also used to develop draft proposals to improve the quality of information to inform the integrated commissioning of services from Care Homes for Older People. This is also accessible under the market analysis section of the NCB website. This is the real value of the exercise.
54. The analysis provided a range of valuable information designed to inform the future planning and commissioning of services. It was able to provide a wealth of information from the number of placements funded by the health board for those people eligible for Continuing Health Care (CHC) funding, as well as those placements jointly funded in nursing homes by local authorities with the health boards providing the funding for the nursing care element of the placement. It was able to provide information on placements having to be out of county because of no local provision, etc.
55. Despite the comprehensive detail of the analysis, it still suffered from an important weakness. It was predicated on a census study based on a given point of time in 2016. It was therefore not able to provide data on trends. This is important because if we combine the information from the census with projections of growth of the population, we can begin to estimate future demand for placements. However, when we examine trends in demand in terms of placements made, a different picture emerges with demand for residential care having gone down significantly over the past ten years. It should be noted that statistics on residential and nursing home placements are collected at a national level. This means that we have to collect information on a regular basis to examine and understand changes in demand.
56. The problem with the national statistics is that they fail to include the placements made by health boards for those eligible for CHC funding and, therefore, fail to provide a comprehensive picture of demand. This is an example of where measures are not integrated.
57. The proposals contained within the paper recommended the development of a National Reporting Template to facilitate the consistent collection and aggregation of management and financial information at both local and regional level, which can also provide a national overview. Both standard and bespoke reports could be generated at regular intervals without the drain of resources required for one off research exercises. The development of a national template would also facilitate the development of reports at local, regional and national

levels, which would support the work both in relation to the development of local market stability reports and the operation of a market oversight regime and would allow for benchmarking and shared learning. The development of national templates would address challenges of using common language and measures and would harmonise reporting timescales.

58. Clearly, the development of a national reporting template would require the cooperation of both the RPBs and the Welsh Government. These developments would also contribute to the implementation of recommendations contained within the Parliamentary Review of Health and Social Care in Wales. The Review recommended that Welsh Government should work with stakeholders to ‘redesign organisation accountability and reporting arrangements on an integrated health and social care basis’.
59. The principles of these proposals could be extended across all services. We need to develop an understanding of demand across the whole health and social care system. This means we will need a similar comprehensive information in relation to other services such as home care, reablement, etc. We will need to ensure, for example, that the option of intermediate care (provided either in community hospitals, care homes or in the community) is built into the pathways for older people leaving hospital to avoid inappropriate admissions into long term care. The number of direct admissions from hospitals into long term placements in care homes will be an important part of the information to be collected in relation to services for older people. We need to develop our information systems to improve our understanding of how changes in one service may impact positively in managing demand across the system.
60. One partnership (Powys), extended its market analysis to include wider accommodation for older people including extra care housing and sheltered accommodation. This analysis is included on the NCB website and again provides an illustration of the information required to understand the existing state of service provision.
61. In terms of prioritising information, the bottom line is that each partner will need to identify its contribution to the pooled budget with regular reports on expenditure to date and projections of spend to year end. Similarly, each partner will need to understand demand for placements throughout the year in terms of total placements and will also include information on admissions and discharges. Additional information will be required to understand the pattern and drivers of demand, including the impact of other services in helping to manage demand.
62. The development of partnerships and pooled budgets require agreement and transparency of objectives and resources between commissioners and reduce duplication of commissioning functions. The governance arrangements of partnerships and pooled budgets require good quality information on performance. This should apply to performance of commissioners as well as providers.
63. An integrated approach to commissioning should benefit providers in terms of removing duplication of processes together with sharing a more accurate picture of demand to help them develop their business plans.
64. Strong partnerships are built and developed with trust and confidence. We can help to promote trust and confidence by ensuring that the RPBs and their Management Groups are serviced regularly with good quality management, financial and performance information reports, to provide assurance that partnership arrangements are improving their capacity to meet their statutory requirements. This means providing information on a regular basis in relation to demand and on what each partner is putting in and getting out of the partnership.

65. Whether the pooled budget operates at a regional or local authority basis, the reporting arrangements will need to account to each partner both in terms of activity, expenditure and outcomes achieved. There are therefore advantages to building the budget up from the local level and provide reports at the local and regional level. The local dimension is essential towards developing services as close to the individual and community as possible.
66. Given the size of the pooled budgets as they relate to regions, this will also mitigate any risks associated with such a large budget and the numbers of partners involved. Local and regional solutions to any difficulties or challenges can be developed accordingly.
67. The development of the budget on this basis, reporting at both local and regional levels, should address anxieties regarding both loss of control and cross subsidisation. It should also improve planning at locality level. One of the purposes of partnership and pooled funding is to provide a coherent approach to shaping the market.
68. The governance arrangements will also encompass who can authorise expenditure and should consider:
 - Who can agree to the funding, for example, of a placement in a nursing home?
 - What are the most effective mechanisms for agreeing and authorising such decisions?
 - Who can make such a demand of the budget?
 - If such decisions are delegated to a local Management Group, then should also the responsibility for managing a local budget on behalf of the RPB; or we will have a position where decisions are made about placements by managers with no accountability for the financial consequences?

A very centralised process of authorisation will result in decisions being taking further away from the individual and the professionals who are most familiar with their needs and the outcomes important to them. There may also be significant delays in decision making which will impact negatively on other services e.g. delayed transfers of care from hospital.

69. All statutory partners need to agree on the reporting requirements of the partnership both in terms of contents and timing. Auditors should also be informed and consulted. The timetable requirements of all partners in terms of annual reports and accounts will need to be taken into consideration.
70. As partnership working develops, we may see pooled budgets develop which encompass a range of services – care homes, home care, reablement, etc. One advantage of such a pool is that it is easier for a Partnership Board to move resources between services within the pooled fund to respond more effectively to changing demand. Some of these arrangements could be managed locally around localities or GP clusters. This requires further discussion because we need to reconcile the pressures of effective financial management whilst keeping decision making as close to the individual as possible within the spirit of the Social Services & Well-being (Wales) Act 2014.

Accounting Guidance

71. In 2017, The Chartered Institute of Public Finance & Accountancy (CIPFA) and Healthcare Financial Management Association (HFMA) published a briefing paper, '*Pooled budgets and the integration agenda in Wales*'.^{xvi} This provides advice on accounting issues, together with

the accounting standards that apply to accounting for pooled budgets and should be the first point of reference.

72. Current guidance for NHS partners, is contained in the NHS Manual for Accounting, which is issued to NHS local health boards and trusts and provides an interpretation on how the NHS should account for use of NHS funds within pooled arrangements, regardless of whether the health board or the local authority is the host of these arrangements.
73. For local authority partners, The Statement of Recommended Practice (SORP) Guidance Notes for Local Authorities, offers similar guidance. (See also THE CODE OF PRACTICE: ON LOCAL AUTHORITY ACCOUNTING IN THE UK: GUIDANCE NOTE FOR PRACTITIONERS 2018/19 published by CIPFA, November 2018.)
74. It will be important to achieve consistency between partners in relation to the presentation of accounts.

Consistency between Partners

“A simple rule in accounting for a pooled budget is that – regardless of whom the host partner may be – the presentation of the accounts of all partners should look the same” (Better Outcomes for Children’s services through Joint Funding: A Best Practice Guide).^{xvii}

75. The CIPFA/HFMA briefing document on pooled budgets noted that:

“A pooled budget agreement, by its very nature, affects more than one organisation’s annual report and accounts. Agreeing a consistent accounting treatment with partner bodies at the start of the year can be facilitated by a joint accounting policy that is then shared with those charged with governance (usually the audit committee) of all. The bodies involved prior to the point at which accounts are reviewed and agreed”.

See Advice Note 3 on Practicalities of Partnership Development for advice on establishing and managing the pooled fund.

Audit

76. As stated in the Partnership Regulations, the host for the pooled budget should arrange for the audit of the partnership account. This will relate to the levels of contribution made by each of the partners and the total expenditure from the budget. This will need to be supported by evidence that management reporting to the contributing partners identifies how far the pooled budget is fulfilling the aims and objectives that were agreed and set out in the Partnership Agreement. Any monies within a pooled budget will be audited as part of the audit of accounts of the partner bodies to which those monies relate. As such, the auditor will expect the same level of internal control to apply to pooled funds as apply to other parts of the partner organisation. The auditor will retain full right of access to other parts of the partner organisation. The auditor will retain full right of access to the financial records and systems and expect a clear audit trail to be maintained for all financial transactions.

Surplus and Deficit

77. The partners should consider and define, at the outset, not just the contributions but also the process for reporting on and managing surplus and deficit, including relative organisational responsibilities where there is a deficit that might occur. It does not follow that because there is a deficit that each partner will bear a liability proportionate to their original contribution of cash to the pool, neither does it follow that each partner will automatically derive a share proportionate to their original contribution if there is a surplus. In both cases, proportionality should be the first point of the agreement and relative shares for this should be set out in the original agreement, at the outset, along with any variation to reflect contributions adjusted over time.

Termination and Liability

78. It is expected that the partners will also want to be clear, at the outset, how specifically in any termination leading to the winding up of the agreement, continuing liabilities and any shares from accruing resources are to be distributed. A protocol setting this out would be helpful. This could include:

- Timescales that would be required for changing the arrangement; or bringing it to an end;
- How disputes about budgets, quality of service etc would be handled;
- What would happen in the event of the termination of the entire partnership; staffing issues that arise – reabsorption of staff, maintaining continuity of service; contracts previously entered into for externalised services, asset allocation, responsibility for debts etc;
- Disposal, transfer of fixed assets; and
- Withdrawal of any one of the partners.

Complaints

79. Complaints about the service should be dealt with according to which partner is responsible normally. However, it is usual within a Part 9 (or Section 33) Agreement to clarify that complaints about the service will, in the first instance, be directed to the host partner who will address the complaint if it is one for them in their role and, if not, will be dealt with according to the other partner's complaints procedure.

Consultation

80. The regulations underpinning Section 33 Agreements state that the partners may not enter into a partnership arrangement unless they have consulted jointly such persons as appear to be affected by such arrangements. The persons, timescale and process are not prescribed.
81. Where consultation is with staff, as they are either affected or may feel that they are going to be, RPBs are advised that the involvement of staff in the design of the partnership agreement is beneficial, along with regular communications. Additionally, it is important to keep members and non-executives fully involved in understanding the nature of the

agreement and how their questions or concerns are answered in the draft agreement, alongside explaining the intended benefits.

Annex 1: Sources of Advice on Governance.

Governance

For the NHS in Wales, governance is defined by the NHS Confederation as:

“A system of accountability to citizens, service users, stakeholders and the wider community, within which health care organisations work, take decisions and lead their people to achieve their objectives.”

In simple terms this is the way in which the NHS bodies ensure that they are doing the right things in the right way, for the right people, in a manner that upholds the values set by the Welsh Public Sector. (See NHS Wales Governance E-Manual).^{xviii}

The Healthcare Quality Improvement Partnership (HQIP) and the Good Governance Institute published a ‘Good Governance Handbook’,^{xix} which states that good governance should deliver and focus on:

- **Vision** – a shared understanding of what it is the organisation is trying to achieve and the difference it intends to create.
- **Strategy** – the planned achievement of the vision
- **Leadership** – the means by which the organisation will take forward the strategy.
- **Assurance** – comfort and confirmation that the organisation is delivering the strategy to plan, manages risks to itself and others, works within the law, delivers safe, quality services and has a proper grip on resources of all kinds for which it is accountable.
- **Probity** – that the organisation is behaving according to proper standards of conduct and acts in an open and transparent manner.
- **Stewardship** – that the organisation applies proper care to resources and opportunities belonging to others but for which it is responsible or can affect.

In 2016, the Chartered Institute of Public Finance and Accountancy (CIPFA), in conjunction with the Society of Local Authority Chief Executives (SOLACE), published guidance notes on the implementation of ‘*Delivering Good Governance in Local Government*’.^{xx} These are helpful because they are intended to assist local authorities and associated organisations and systems, such as joint boards, partnerships and other vehicles through which local authorities now work in Wales, in reviewing the effectiveness of their own governance arrangements by reference to best practice and using self-assessment. The aim of the notes includes assisting authorities on among other things:

“Developing and reviewing governance arrangements across the whole governance system including partnerships, shared services and alternative delivery models.”

The development of new structures as a result of key policies affecting local government, provides an opportunity to ensure that the core principles of good governance covering openness and stakeholder engagement, defining outcomes, monitoring performance and demonstrating effective accountability are integrated and embedded within new structures and that mechanisms for effective scrutiny are established.

The guidance notes provide a valuable checklist for authorities to consider when looking at, implementing and reviewing partnership arrangements. They are set against the principles of good governance from *Delivering Good Governance in Local Government* listed below:

- (a) **Behaving with integrity, demonstrating strong commitment to ethical values, and respecting the rule of law;**
- (b) **Ensuring openness and comprehensive stakeholder engagement;**
- (c) **Defining outcomes in terms of sustainable economic, social, and environmental benefits;**
- (d) **Determining the interventions necessary to optimise the achievement of intended outcomes;**
- (e) **Developing the entity’s capacity, including the capability of its leadership and the individuals within it;**
- (f) **Managing risks and performance through robust internal control and strong public financial management;**
- (g) **Implementing good practice in transparency, reporting, and audit to deliver effective accountability.**

The guidance also provides a schedule to assist in putting the principles of good governance into practice.

In addition, the citizen-centred governance principles developed within the ‘Making the Connections’ project, provide a framework for improving practice of public service governance in Wales. These have been taken forward by NHS Wales in the Governance E-Manual^{xxi}, and are intended as a useful guide:

Citizen Centred Governance Principles: Making the Connections
<ul style="list-style-type: none"> • Putting the Citizen First – ‘Good governance means focusing on people’s needs and experiences, making the organisation’s purpose the delivery of a high-quality service’. • Knowing who does what and why – ‘Good governance means that everyone involved in delivering a service understands each other’s role, responsibilities and how together they will deliver the best possible outcomes’. • Engaging with others – ‘Good governance means ensuring that the views and contributions of staff, the public and partner agencies are sought and harnessed to achieve the best possible outcomes.’ • Living Public Service Values – ‘Good governance means creating a team that can do the job well, whose behaviours are rooted in public service values’. • Fostering Innovative Delivery – ‘Good governance means being creative and innovative in the delivery of public services – working from evidence and taking managed risks to achieve better outcomes.’ • Being a Learning Organisation – ‘Good governance means always learning and always improving service delivery’.

- **Achieving Value for Money** – ‘Good governance means looking after taxpayers’ resources properly, and using them carefully to deliver high quality, efficient services.’

The Commission on Public Service Governance and Delivery (2014)^{xxii} also noted that:

“Good governance is not only the role of members of the Board, cabinet, senior leadership team but part of the values of the whole organisation...”

It will be important for all staff working within the partnership to understand their roles, responsibilities and contributions.

References

- ⁱ Welsh Government, *A Healthier Wales: Our Plan for Health and Social Care*, 2018. <https://gweddiill.gov.wales/docs/dhss/publications/180608healthier-wales-mainen.pdf>
- ⁱⁱ The NHS Bodies and Local Authority Partnership Arrangements (Wales) Regulations 2000. <http://www.legislation.gov.uk/uksi/2000/617/made>
- ⁱⁱⁱ Welsh Government, *Social Services & Well-being (Wales) Act 2014: Part 9 Statutory Guidance (Partnership Arrangements)*, 2015. <https://gweddiill.gov.wales/docs/dhss/publications/151218part9en.pdf>
- ^{iv} Partnership Arrangements (Wales) Regulations 2015. <http://www.legislation.gov.uk/wsi/2015/1989/contents/made>
- ^v The Partnership Arrangements and Population Assessments (Miscellaneous Amendments) (Wales) Regulations 2019. <http://www.legislation.gov.uk/wsi/2019/760/contents/made>
- ^{vi} Healthcare Financial Management Association, *How do you support effective system decision making?*, 2018. <https://www.hfma.org.uk/publications/details/how-do-you-support-effective-system-decision-making>
- ^{vii} The Parliamentary Review into Health and Social Care in Wales, *A Revolution from Within: Transforming Health and Care in Wales*, 2018. <https://gov.wales/sites/default/files/publications/2018-01/Review-health-social-care-report-final.pdf>
- ^{viii} The Older People's Commissioner for Wales, *A Place Called Home: A Review into the Quality of Life and Care of Older People living in Care Homes in Wales*, 2014. http://www.olderpeoplewales.com/en/Reviews/Residential_Care_Review/ReviewReport.aspx
- ^{ix} Margaret Flynn, *In Search of Accountability: A review of the neglect of older people living in care homes investigated as Operation Jasmine*, 2015. <https://gweddiill.gov.wales/docs/dhss/publications/150714ojreporten.pdf>
- ^x Institute of Public Care, *Let's Agree to Agree*, 2018. https://ipc.brookes.ac.uk/publications/Lets_agree_to_agree.html
- ^{xi} *Salford Integrated Care System Governance Framework: Adult Health and Care Services*, 2016. [Salford-Governance-Framework-v5SM.pdf](https://www.salford.gov.uk/media/1000000/salford-integrated-care-system-governance-framework-v5sm.pdf)
- ^{xii} The Audit Commission, *A Means to an End: Joint Financing across Health and Social Care*, 2009. <https://www.bl.uk/britishlibrary/~media/bl/global/social-welfare/pdfs/non-secure/m/e/a/means-to-an-end-joint-financing-across-health-and-social-care-national-report-summary.pdf>
- ^{xiii} Institute of Public Care & Welsh Local Government Association, *Care Homes for Older People: Improving the quality of information to inform commissioning*, 2018. <https://www.wlga.wales/SharedFiles/Download.aspx?pageid=62&mid=665&fileid=1928>
- ^{xiv} Institute for Public Care, *Commissioning Services for People with a Learning Disability*, NCB, 2017. <https://www.wlga.wales/SharedFiles/Download.aspx?pageid=62&mid=665&fileid=1252>
- ^{xv} The National Commissioning Board, *Market Analysis of Care Homes in Wales*, 2017. <https://www.wlga.wales/introduction-to-market-analysis-of-care-homes-in-wales>.
- ^{xvi} CIPFA/HFMA Wales, *Pooled budgets and the integration agenda in Wales*, 2017. <https://www.hfma.org.uk/docs/default-source/publications/Briefings/pooled-budgets-briefing-wales-2017.pdf?sfvrsn=0>

^{xvii} Every Child Matters & Department of Health, *Better Outcomes for Children's services through Joint Funding: A Best Practice Guide*, 2007.

<https://webarchive.nationalarchives.gov.uk/20081105161055/http://www.everychildmatters.gov.uk/strategy/planningandcommissioning/jointfunding/>

^{xviii} NHS Wales Governance E-Manual - <http://www.wales.nhs.uk/governance-emanual/home>

^{xix} Health Quality Improvement Partnership & The Good Governance Institute, *Good Governance Handbook*, 2015. <https://www.good-governance.org.uk/wp-content/uploads/2017/04/Good-Governance-Handbook.pdf>

^{xx} CIPFA & SOLACE, *Delivering Good Governance in Local Government*, 2016. <https://www.cipfa.org/cipfa-thinks/cipfa-thinks-articles/delivering-good-governance-in-local-government,-c-,--annual-governance-statements>

^{xxi} NHS Wales Governance E-Manual, *Citizen-Centred Governance Principles: Making Sense of Them*, 2010. <http://www.wales.nhs.uk/governance-emanual/citizen-centred-governance-principles>

^{xxii} *The Commission on Public Service Governance and Delivery; Full Report*, 2014.

<https://www.lgcplus.com/Journals/2014/01/21/d/r/x/Commission-on-Public-Service-Governance-and-Delivery-Wales.pdf>