

The Welsh Government Green Paper: Our Health, Our Health Service

A Submission by:

**The Chartered Institute of Public
Finance and Accountancy**

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CIPFA, the Chartered Institute of Public Finance and Accountancy, is the professional body for people in public finance. CIPFA shows the way in public finance globally, standing up for sound public financial management and good governance around the world as the leading commentator on managing and accounting for public money.

Further information about CIPFA can be obtained at www.cipfa.org

Any questions arising from this submission should be directed to:

Kerry Ace

Finance and Policy Manager
CIPFA
77 Mansell Street
London

E1 8AN

Tel: +44 (0)1425 403314

Email: Kerry.ace@cipfa.org

Alan Bermingham

Policy and Technical Manager
(UK Devolved Regions and Ireland)
3rd Floor, Lesley Exchange 2
22 East Bridge Street
Belfast

BT1 3NR

Tel: +44 (0)2890 266 1653

Email: alan.bermingham@cipfa.org

1.0 Executive Summary

- 1.1 CIPFA has limited its responses to chapters 7 and 8 of the Green Paper. We have therefore focussed on NHS borrowing arrangements and; leadership, governance and partnerships within this submission.

NHS Borrowing Arrangements

- 1.2 CIPFA supports the view that borrowing powers should be available to NHS bodies, including health boards in Wales, supported by the establishment of a prudential borrowing framework.
- 1.3 CIPFA believes that there is a need for borrowing powers by NHS bodies including health boards to be supported by legislation that would underpin the framework for control of borrowing and ensure future financial sustainability.
- 1.4 The roles of those charged with governance and those charged with financial management and accountability for preparation of budgets and estimates will need to be supplemented with clearly stated responsibilities for any enhanced borrowing arrangements.

Leadership, Governance and Partnerships

- 1.5 CIPFA believes that working across organisational boundaries and through partnership or collaborative working arrangements requires careful consideration of the supporting governance arrangements.
- 1.6 In devolving the appropriate codes of governance for NHS bodies in Wales, CIPFA advocates incorporation of the principles contained in the International Federation of Accountants (IFAC) and CIPFA publication 'International Framework: Good Governance in the Public Sector'¹ in order to promote a consistent framework and culture across the sector.
- 1.7 CIPFA believes that it is essential for chairs and board members to exercise leadership and have the necessary skills and training to allow them to complete their scrutiny and challenge role effectively

¹ CIPFA IFAC International Framework: Good Governance in the public Sector <http://www.cipfa.org/policy-and-guidance/standards/international-framework-good-governance-in-the-public-sector>

2.0 NHS Borrowing Arrangements

- 2.1 Borrowing powers can provide additional flexibility for funding Capital Investment and, under specific circumstances, support larger one-off revenue spending aimed at future cost saving or re-organisation.
- 2.2 CIPFA supports the view that borrowing should be available to NHS bodies, however the framework under which borrowing is allowed needs to be established and a set of core principles underpinning the governance and decision making for entering borrowing arrangements fully understood (*see Appendix A*). CIPFA believes that there is a case to be made for a review of borrowing across the NHS in Wales with the consideration of implementing a prudential borrowing arrangements in the sector.
- 2.3 A prudential borrowing framework in the NHS would place relevant NHS bodies under the same framework as currently exists in Local Government² and has been proposed³ for devolved government borrowing in Scotland under the Smith Commission.
- 2.4 CIPFA would contend that there would be a need for a legislative framework to support prudential borrowing powers for NHS bodies in Wales arising from the following:
- (a) The fact that any borrowing powers should have a legislative basis
 - (b) Legislation supporting a prudential approach allows Welsh NHS bodies flexibility in determining overall borrowing levels subject to the agreed fiscal principles. This would potentially enable more effective interventions to support NHS Investment and efficiency measures as required, rather than being restricted to set limits as in the current legislation under the NHS (Wales) Act 2006.
 - (c) Legislation of this nature fully supports a robust set of institutional arrangements that are designed to ensure financial sustainability in public finances.
 - (d) The prudential system, underpinned by legislation and regulation, provides a self-regulatory framework that extends into all areas of the NHS in Wales, subject to retention of reserve powers by the Welsh Government.
 - (e) An important aspect of the self-regulatory environment created by the prudential system is that it closely links with capital and asset management planning and therefore supports more effective value for money decision making on capital investment.

A similar legislative framework to Local Government in England and Wales is in place elsewhere for Local Government in the UK through legislation⁴.

² CIPFA: 'Prudential Code for Capital Finance in Local Authorities' and Prudential Borrowing Arrangements under part 1 of the Local Government Act 2003 in England and Wales

³ Smith Commission Report for further devolution of powers to the Scottish Parliament – para 95(5) November 2014

⁴ Scotland under Part 7 of the Local Government in Scotland Act 2003 and Northern Ireland under Part 1 Local Government Finance Act (Northern Ireland) 2011

- 2.5 In summary, the operation of this framework will require the Welsh Government to consider:
- i) The supporting legislation and regulations governing the framework.
 - ii) Effective Corporate Governance arrangements. This will include identification of the relevant and appropriate NHS body that will oversee and approve the operation of the Prudential Framework. This would include approval of a set of agreed Prudential Indicators.
 - iii) Clearly defined roles and responsibilities for the Chief Financial Officers of all NHS bodies covered by the legislative arrangements. Particularly, this role will involve responsibility for ensuring that matters to be taken into account when setting and revising prudential indicators are reported to the relevant decision making body for consideration. Preparing and presenting the Prudential Indicators for agreement and also, reporting regularly on the robustness of the estimates used in this regard.
- 2.6 Alongside the prudential framework there needs to be a comprehensive Treasury Management and Borrowing strategy. This will ensure that the principles of security and liquidity of funds is secured and that yield from investments is considered but not at the expense of security and liquidity.
- 2.7 An important point to observe in this framework is that borrowing is not linked to asset purchases, i.e. the Welsh NHS Bodies should not be borrowing for specific assets, but for its need to finance capital requirements. This means that should the relevant bodies have freely available funds in reserves, it may decide to utilise those funds in the short-term rather than borrow at an increased cost.
- 2.8 Adopting this approach may also necessitate that the charge made to revenue budgets for the cost of borrowing reflects the organisations borrowing need and not its actual loan debt. In local government this is facilitated by local authorities making a minimum revenue provision against revenue budgets for their underlying need to borrow. How and when they actually borrow the funds is a matter for their treasury management strategy.
- 2.9 Approval, alongside the Prudential Indicators, would be required for the Treasury Management Strategy and Policy and any minimum revenue provision against budgets.

3.0 Accountability and Governance

- 3.1 If the Welsh Government adopts a Prudential Framework approach within the NHS in Wales, this does indicate a move towards a more self-regulated process and away from fixed limits on borrowing. As a result the accountability and governance arrangements need to be robust and effective for the system to be successful.
- 3.2 The Prudential Indicators and the approval of them, form an important element of the accountability and governance process. The approval requirements arise from the necessity that decisions about borrowing and its affordability are matters of judgement, which must be made by those charged with governance and accountability.
- 3.3 To support these arrangements, CIPFA would strongly advocate that the roles of those charged with governance and accountability and the timing of events in the approval and monitoring cycle are fully documented and understood.

4.0 Leadership, Governance and Partnerships

- 4.1 CIPFA has carried out significant work in leading the debate on governance arrangements in the public services. Our most recent generic project in the area of governance is the development and promotion of the *International Framework: Good Governance in the Public Sector* which was drawn up in association with the International Federation of Accountants (IFAC).¹
- 4.2 The International Framework was developed after a review of relevant current governance literature from across the globe, and builds on this literature, particularly IFAC's and CIPFA's earlier work on governance, including *Governance in the Public Sector: A Governing Body Perspective* (IFAC, 2001)⁵ and *Good Governance Standard for Public Service Organisations* (CIPFA/OPM, 2004).⁶ It sets out seven core, high-level principles characterising good governance in the public sector, that bring together a number of interrelated concepts.
- 4.3 The International Framework positions the attainment of sustainable economic, societal, and environmental outcomes as a key focus of governance processes and structures in the public sector. The Framework also considers sustainability and the links between governance and public financial management in order to encourage a recognition of the need to focus on the long term. The principles from the International Framework are illustrated in the diagram overleaf.
- 4.4 Our governance work in health includes *Practical issues in the governance of Clinical Commissioning Groups* which was published in October 2015.⁷ This guide is intended to give Clinical Commissioning Group (CCG) members an introduction to best practice in governance.

5.0 The principles of good governance

"Governance comprises the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved.

- 5.1 To deliver good governance in the public sector, both governing bodies and individuals working for public sector entities must try to achieve their entity's objectives while acting in the public interest at all times. Acting in the public interest implies primary consideration of the benefits for society, which should result in positive outcomes for service users and other stakeholders.

(International Framework: Good Governance in the Public Sector, CIPFA/IFAC, 2014)

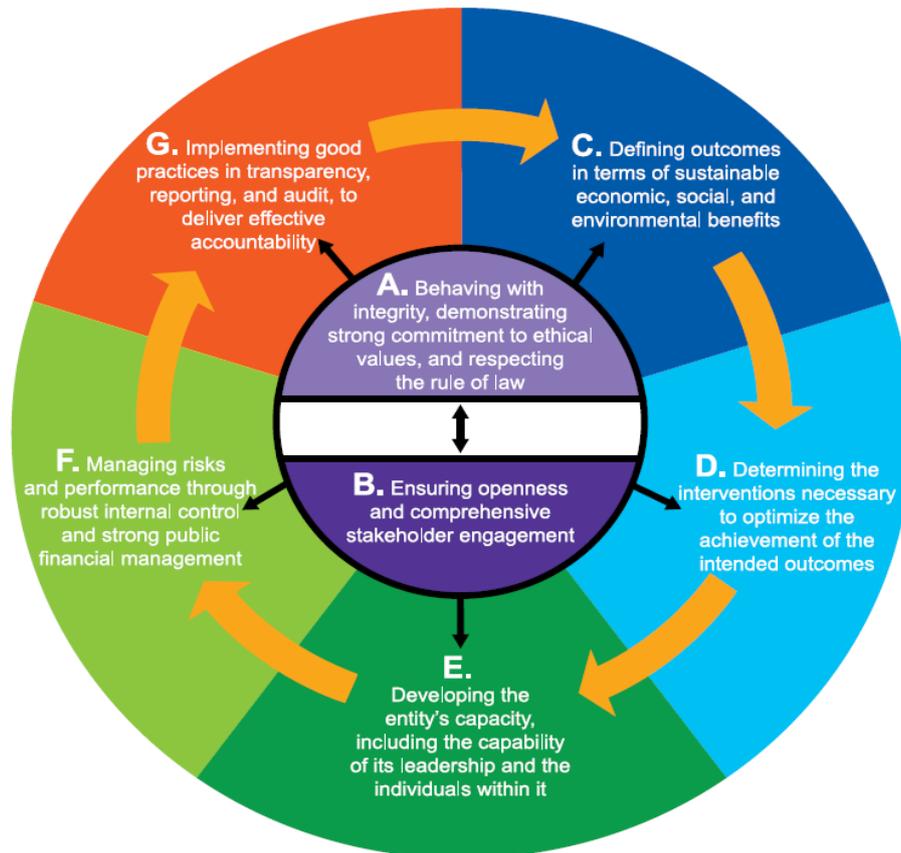
- 5.2 The diagram from the *International Framework*, below illustrates how the various principles for good governance in the public sector relate to each other. Principles A and B permeate implementation of principles C to G. The diagram also illustrates that good governance is dynamic, and that an entity as a whole should be committed to improving governance on a continuing basis through a process of evaluation and review.

⁵ IFAC Public Sector Committee: Governance in the Public Sector: A Governing Body Perspective International Public Sector Study – August 2001

⁶ CIPFA and Joseph Roundtree Foundation Good Governance Standard for Public Service Organisations <http://www.cipfa.org/policy-and-guidance/reports/good-governance-standard-for-public-services>

⁷ CIPFA Practical issues in the governance of Clinical Commissioning Groups <http://www.cipfa.org/cipfa-thinks/insight>

Achieving the Intended Outcomes While Acting in the Public Interest at all Times



6.0 Comments and Conclusions

- 6.1 CIPFA supports the emphasis in the Green Paper on the need to consider carefully the governance aspects associated with working across organisational boundaries when services are provided through partnership and collaborative working.
- 6.2 The NHS in Wales will continue to operate in a difficult economic environment for some time to come. At the same time, the development of new collaborative structures and ways of working provide challenges for ensuring transparency, demonstrating accountability and, in particular, for managing risk.
- 6.3 When working in partnership, NHS organisations must ensure that robust governance arrangements are established at the outset which ensure that there is a shared view of expected outcomes supported by effective mechanisms for control and risk management thereby ensuring that the public purse is properly protected.
- 6.4 A key issue emerging from those responding to the CIPFA/SOLACE consultation on an updated Framework for *Delivering Good Governance in Local Government* was that there should be some correlation between governance frameworks, guidance and codes used in different parts of the public sector in order to ensure that they are useful when establishing governance arrangements for collaborative working. This links with the overall intention behind the *International Framework: Good Governance in the Public Sector*.
- 6.5 The International Framework is not intended to replace national and sectoral governance codes. Instead, it is anticipated that those who develop and set

governance codes for the public sector will refer to the International Framework in updating and reviewing their own codes.

- 6.6 When codes of governance are updated for NHS organisations in Wales, we believe that it would be helpful if the International Framework formed part of the basis for the review. The principles for good governance set out in the International Framework provide for a shared understanding of what constitutes good governance across the public sector.
- 6.7 In our view, it is crucial that governance arrangements are applied in a way that demonstrates the spirit and ethos of good governance which cannot be achieved by rules and procedures alone. We therefore support paragraph 113 of the Green Paper which acknowledges the importance of a consistent culture in achieving good governance.
- 6.8 Such arrangements need to be matched to be effective in practice. It is therefore helpful for board members working in partnerships to receive appropriate training. Working in partnership requires the ability to work across organisational boundaries and to confront and influence those who might put up barriers to co-operation. Training should also include guidance on how to deal with apparent competing and/or conflicting demands in respect of the partnership versus their role in their own organisation.
- 6.9 Challenge and scrutiny contribute to good governance by being a key part of transparent and accountable decision making, policy making and review. It is essential that board chairs and members exercise leadership and have the necessary skills and training to allow them to scrutinise and challenge effectively and that concerns are taken seriously and where relevant incorporated into appropriate recommendations.
- 6.10 It is important that the governance of partnership arrangements is scrutinised closely. Although those responsible for scrutiny may not be permitted to access all the information they would like owing to contractual arrangements, oversight of outsourced services and joint operations should still allow for an element of openness and accountability that might otherwise not exist.

APPENDIX A

Principles and the Operation of the Prudential Framework

The main principles behind the prudential framework, as used in Local Government, are the affordability, sustainability and prudence of borrowing decisions. The framework supports improved strategic and asset management planning and we believe will underpin a good practice in capital and investment planning.

(a) Affordability

The fundamental objective of affordability is to ensure that capital plans remain within sustainable limits and in particular, to consider its impact on revenue resources and therefore service delivery. Setting affordable limits for borrowing within a prudential framework is a specific requirement and helps ensure that the further objectives of sustainability and prudence are addressed.

(b) Sustainability

The sustainability of public finances underpins the overall UK fiscal framework and this is supported within the operation of the prudential code. Sustainability of public finances relates to the ability of a government to sustain its current spending, tax and other policies in the long run without threatening government solvency or defaulting on of its liabilities or promised expenditures.

With increasing devolution to the Welsh Government, this will bring increased volatility in revenues and the need to ensure the consequences of long-term investment in capital assets through borrowing or public private partnerships are fully understood. Putting such arrangements in place within the NHS in Wales will provide a solid platform to work towards ensuring financial sustainability at all levels of the Welsh Government.

(c) Prudence

The prudent level of borrowing is linked to ensuring that ensuing debt will only be for a capital purpose. External debt should not, except in the short term, exceed the total of its capital financing requirement. This is a figure that represents the total value of prior year capital that remains un-financed. It is also prudent that treasury management activities are carried out in accordance with good professional practice. Within the CIPFA Prudential Code, local authorities are required to adopt the CIPFA Treasury Management Code of Practice⁸.

The borrowing levels within the prudential framework are linked to their implications on affordability within the revenue budgets rather than capital budgets. This means that the impact on running costs is the driver of affordability rather than the level of capital budgets available. This also helps underpin the longer-term inter-generational affordability and prudence of capital investment plans.

⁸ CIPFA's Treasury Management in the Public Services: Code of Practice and cross sectorial guidance notes 2011