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# Contract for the provision of the out-of-hours GP service in Cardiff



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I have prepared this report for presentation to the National Assembly under the Government of Wales Act 1998.

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## Summary

- 1 Under the new General Medical Services contract, Local Health Boards in Wales are responsible for the provision of General Practitioner (GP) out-of-hours services. In January 2004, Cardiff Local Health Board (the LHB<sup>1</sup>) issued an invitation to tender for three aspects of the provision of out-of-hours services in Cardiff: telephone nurse triage, clinical assessment and transport. In April 2004, following a competitive tender process, the LHB awarded a fixed price contract, worth £1.9 million per annum for three years, to Clinical Solutions UK/Europe Limited (CSUK<sup>2</sup>) to provide these services. The LHB awarded a contract to provide call handling for the out-of-hours service to Connect 2 Cardiff, Cardiff County Council's call centre. CSUK began operating their parts of the out-of-hours service in Cardiff in October 2004.
- 2 Shortly after the services began, Cardiff LHB awarded CSUK nearly £59,000 additional funding to recruit additional nurses during peak times at the weekend. The LHB initially awarded CSUK additional funding for six weeks, and subsequently issued contract variations covering the period between 23 October 2004 and 27 March 2005.
- 3 In February 2005, my predecessor as Auditor General, Sir John Bourn, received correspondence from the Bro Taf Local Medical Committee, which represents GPs in the Cardiff, Merthyr Tydfil, Rhondda Cynon Taff and Vale of Glamorgan areas. The correspondents expressed the view that the tender process leading to the award of the contract to CSUK was flawed, that the LHB did not conduct sufficient background checks into CSUK, and that the additional funds awarded to CSUK were unjustified because the costs should have fallen to CSUK under the contract. We therefore examined whether Cardiff LHB's procedures for letting the contract for out-of-hours services in Cardiff were robust, and whether the additional payments made to CSUK were justified. In particular, in the light of the issues raised in the correspondence, we examined whether:
  - the tender and contract letting process was robust and fair;
  - Cardiff LHB effectively managed the risks associated with awarding the contract to CSUK;
  - the contract provided for an appropriate transfer of risks to CSUK;
  - the levels of demand for out-of-hours services that triggered additional payments to CSUK exceeded those set out in the contract; and
  - the additional funds paid to CSUK represented good value for money.
- 4 We did not examine whether the out-of-hours service was provided to the quality standards set out in the contract. The Auditor General's proposed value for money examination of the General Medical Services contract in Wales, which we plan to start later in 2005, will address quality of service issues.

1 Throughout the report the terms 'Cardiff LHB' and 'the LHB' refer to the executive arm of the LHB. Where the reference is to the Board or Board members, this is made clear in the text.

2 CSUK recently changed its name and is now called Healthcare Services 24.

- 5 On the basis of our examination, we concluded that:
- overall, the tender and contract letting process was robust and fair, but there were deficiencies in the LHB's management of key risks during the process; and
  - there were deficiencies in the LHB's contract management after award - in particular, the provision of additional funds to CSUK did not offer good value for money, as it represented a payment to enable CSUK to manage risks that it had accepted under the terms of the contract.

### **Overall, the tender and contract letting process was robust and fair, but there were deficiencies in the LHB's management of key risks**

- 6 **The tender process was robust and fair, although the LHB could make improvements for future exercises of a similar nature.** CSUK was chosen as the preferred bidder at the end of a robust evaluation and selection process that followed Welsh Assembly Government guidance and procurement advice. The process would have been improved if the LHB had taken steps at an earlier stage to ensure that potential bidders had a clear and unambiguous understanding of the tender specification, and by a more robust decision making framework that involved the full Board in the final decision to award the contract.

- 7 **There were deficiencies in Cardiff LHB's risk management before and after the decision to award the contract to CSUK.** When CSUK submitted its tender, it was a new company. Although it is entirely appropriate to award contracts to new companies when they are the best available supplier, there are particular risks that need to be assessed and managed. Cardiff LHB did not follow best practice with respect to due diligence checks into the financial viability and experience of a new company such as CSUK. Further, although LHB officials told us that the decision to award the contract to CSUK was made on the balance of total risk, and the LHB took some steps to manage the risks it had identified, the LHB had no documented risk management strategy or contingency plan should the contract fail.

- 8 **A briefing for LHB Board members, subsequent to the decision to award the contract to CSUK, was potentially misleading.** The briefing for the Board on the outcome of the tender exercise and award of contract was potentially misleading, in that it exaggerated the international experience of the successful bidder in providing and supporting out-of-hours services and wrongly referred to 'Clinical Solutions Group', rather than CSUK. Although the Chief Executive of the LHB told us that the briefing was made in good faith and reported information supplied by CSUK during the tender process, it could have given the misleading impression that the LHB had awarded the contract to an established international company with extensive relevant experience of direct service provision. However, LHB officials told us that this international experience was not material to the decision to award the contract to CSUK.



## There were deficiencies in the LHB's contract management – the additional £58,726 awarded to CSUK did not offer good value for money as it represented a payment to enable CSUK to manage risks it had already accepted under the terms of the contract

- 9 **The contract transferred a number of risks to CSUK, some of which were not within CSUK's control.** The LHB used the Welsh Assembly Government's out-of-hours model contract. It states that the only sum payable by the LHB is the agreed contract price. The contract therefore transfers significant risks to CSUK, including the risks associated with ensuring the service is staffed to meet the clinical standards set out in the service specification, and the risk that demand might fluctuate from the levels set in the specification. Good contracting practice suggests that risks should be allocated to the party best placed to manage them. Clearly, CSUK has little control over the levels of demand for out-of-hours services, and it would have been reasonable for the company to have included in the contract price a premium to cover the likelihood of this risk being realised.
- 10 **Cardiff LHB awarded CSUK additional funding totalling £58,726 to manage the clinical risks arising from a perceived increase in demand.** Although, under the terms of the contract, CSUK is responsible for ensuring that the out-of-hours service is provided to the clinical standards set out in the specification, the LHB has the ultimate responsibility for managing risks to patient safety. The LHB might be expected therefore

to take action to respond to any clinical risks arising, for example, as a result of demand significantly exceeding the levels set out in the specification. Shortly after CSUK began running the out-of-hours service, the LHB became concerned that patients were waiting too long for telephone nurse triage at weekends and that this posed a risk to patient safety. The LHB considered that an increase in demand over the levels set out in the contract had caused these delays, although it had little evidence to support this conclusion. Subsequent to making some additional payments to CSUK, the LHB issued a contract variation. A business case provided by CSUK, on which the LHB based its decision to vary the contract, presented inaccurate calculations about levels of demand that were not clearly linked to the agreed level of activity set out in the contract.

- 11 **Demand for out-of-hours services provided by CSUK during October and November 2004, which triggered the additional payments to CSUK, did not exceed the activity levels set out in the contract.** The additional funding secured no additional services above those CSUK was required to provide under the contract. Consequently, although the LHB believed that the additional funding was essential to mitigate clinical governance risks arising from unsafe call back times at weekends, the additional funding provided poor value for money.

# Recommendations

12 In the light of our examination, we make the following recommendations:

## To the Welsh Assembly Government

- a Welsh Assembly Government out-of-hours guidance does not set out the background checks that should be carried out into the financial standing and capacity of private companies bidding for contracts for the provision of out-of-hours services. It is for individual NHS bodies to take responsibility for selecting appropriate providers of the services they require, without over-reliance on central guidance. **Nevertheless, given the relatively limited resources and experience available to LHBs, it would be helpful for the Welsh Assembly Government to direct LHBs to appropriate guidance on the key background checks that need to be conducted in order to verify that a company has the financial capacity and experience to deliver services.**
- b The model contract transfers demand risk to the service provider despite the fact that providers have little influence on demand. Such a risk allocation is unlikely to provide best value for money. The contract should, rather, clarify the steps to be taken, and the associated implications for payments, if demand varies from estimated levels. **The Welsh Assembly Government should reconsider the allocation of risk in the model contract and develop contractual provisions for dealing with changes in demand.**

## To Local Health Boards

- c The final decision to award the out-of-hours contract to CSUK was taken by the Chief Executive and Vice-Chair of the LHB, rather than by the full Board. Such delegation of authority was determined by the Board, in accordance with the standing orders of the LHB, which followed the model standing orders issued by the Welsh Assembly Government. However, the contract involved significant risk, in that it was with a new company and was for the provision of medical services directly to the public. There was also a high level of public interest in the out-of-hours service. In these circumstances, it would have been more appropriate for the decision to award the contract to have been taken, or ratified, by the full Board. **Local Health Boards should review and, where appropriate, revise their delegations so that Boards are required to approve the award of contracts where the associated risks are significant by their nature, if not by their financial value.**
- d In awarding the contract to CSUK, Cardiff LHB was taking a significant risk in terms of the company's financial viability and capacity to deliver. **When awarding contracts for the delivery of patient services, LHBs should develop and document detailed risk management and contingency plans that are proportionate to the degree of risk to service continuity.**





- e Cardiff LHB awarded additional funding to CSUK in response to increased demand for out-of-hours services, without evidence that demand had increased beyond the levels set out in the contract. **LHBs should monitor activity levels against those set out in their out-of-hours contracts, and establish robust protocols to assess and evidence claims for additional funds.**
  
- f Cardiff LHB did not document the references it took up for CSUK and its senior staff. Nor did it fully record the basis of decisions to award, and subsequently extend, additional funding to CSUK. **Local Health Boards should keep accurate records of all information (including notes of references, meetings and discussions) that is material to the award, management and variation of contracts.**

## Part 1: Overall, the tender and contract letting process was robust and fair, but there were deficiencies in the LHB's management of key risks

### The tender process was robust and fair, although the LHB could make improvements for future exercises of a similar nature

- 1.1** Under the new General Medical Services contract, which allows GPs to opt out of the provision of out-of-hours services, from April 2004 responsibility for commissioning out-of-hours GP services fell to Local Health Boards. In order to ensure a safe handover of provision and secure continuity of provision Cardiff LHB decided to implement the new out-of-hours service in October 2004, in advance of the 31 December 2004 deadline for England and Wales. Cardiff LHB was the first in Wales to invite tenders for the provision of out-of-hours services, and it set itself a deadline of 1 April to award the contract in order to give the provider an appropriate time to prepare for implementation.
- 1.2** In April 2004, due to widespread public interest in the award of the out-of-hours contract in Cardiff, Welsh Assembly Government officials carried out an internal review of the tender process adopted by Cardiff LHB. On the basis of our examination, we found no evidence to contradict the review's conclusion that "it would not appear . . . that the process followed by the LHB in the awarding of this contract is flawed in any material way".
- 1.3** Cardiff LHB adopted a competitive tender process and established a sub-group of the General Medical Services Project Board to develop the contract specification. This sub-group comprised a range of stakeholders, including local GPs. In January 2004, the LHB advertised for tenders in the Health Services Journal. On 2 March 2004, a multi-disciplinary evaluation panel reviewed the four bids received and excluded two on the grounds of cost and lack of relevant experience. This left two organisations - CSUK and Cardiff Integrated Care Consortium (made up of Cardiff Doctors on Call, Cardiff and Vale NHS Trust and the Welsh Ambulance Services NHS Trust) - to compete for the contract.
- 1.4** A second evaluation panel, comprising a representative of the Business Services Centre (which provides support services to all 22 LHBs in Wales), a GP representative, the Vice-Chair of the LHB and senior LHB officers, initially assessed the ability of the short-listed bidders to provide services of the requisite quality by scoring their bids against the following non-financial criteria:
  - realistic manpower assumptions;
  - robust recruitment process and accreditation/training;
  - potential to meet the targets contained in the service specification;
  - innovative approach to service delivery;
  - clinical governance issues; and
  - accountability arrangements.
- 1.5** Against these criteria, the CSUK bid scored 19 per cent higher than the Cardiff Integrated Care Consortium (the Consortium) bid. The LHB's Chief Executive, Nurse Director and Vice-Chair subsequently undertook site visits



to observe services provided by CSUK and Cardiff Doctors on Call.

- 1.6** Following their assessment of bids against non-financial criteria, the evaluation panel considered the financial elements of each bid. The LHB had an indicative budget of £1.9 million a year for the out-of-hours service. The original CSUK bid amounted to between £1.6 million and £1.9 million, depending on the rates of pay it could secure for medical staff, whilst the Consortium's bid was £3.1 million.
- 1.7** During the evaluation process the panel realised that the two short-listed bids were not based on the same activity profile. The Consortium's bid included an additional 12 per cent activity to reflect demand on Saturday mornings, which had previously been classed as part of in hours GP cover, whereas CSUK's bid did not. The Consortium's bid also envisaged transferring patients from accident and emergency to the out-of-hours service and included an additional 30,000 cases to cover this. In view of these differences, the LHB asked both parties to re-cost their bids on the basis of a common activity profile – one that included the additional 12 per cent to cover Saturday morning demand but not the transfer of cases from accident and emergency.
- 1.8** CSUK submitted a revised tender price of £1.9 million that included Saturday morning activity, but the Consortium refused to recast its bid as it considered that removing the accident and emergency activity would undermine the basis of its partnership and proposed service model. However, the LHB's finance director analysed the Consortium's bid on the basis of the common activity profile, to make it comparable on cost grounds. The analysis showed that after removing the additional activity, and allowing for possible reductions in costs (of medical staff, nursing staff, reception, management

and administration, transport, and possible economies of scale should the Consortium be successful in winning the out-of-hours contract for the Vale of Glamorgan), the Consortium's bid could potentially be reduced to just over £2 million.

- 1.9** Cardiff LHB awarded CSUK the contract on the basis of the revised activity profile, and the contract offer letter explicitly stated that CSUK had been awarded the contract on the basis of their re-costed tender bid, which included the extra 12 per cent activity to cover Saturday mornings. However, the activity profile set out in the final contract that was signed by the LHB's Chief Executive and CSUK was set at 62,116 cases per year and, therefore, did not include the extra activity.
- 1.10** The tender process would have been improved if all parties had been clear about the precise meaning of the service specification at an earlier stage. The differences between the activity profiles, on which the two short-listed bids were based, arose partly because the Consortium and Cardiff LHB had different interpretations of the term 'integrated' in the service specification. The Consortium's tender bid was based on the integration of accident and emergency services and out-of-hours care, and transferring patients from accident and emergency who would have been more appropriately dealt with in an out-of-hours setting. The LHB's interpretation of 'integrated' involved integrating nurses into the patient care pathway. To avoid such ambiguities in future tender exercises, Cardiff LHB should note the recommendation of the Welsh Assembly Government's internal review, which highlighted the "need for absolute clarity and dialogue at an earlier stage if any bidder appears to have misinterpreted the specification".

**1.11** The Welsh Assembly Government's review also identified weaknesses in the decision making framework for the award of the contract. Under the standing orders of the LHB, which are based on the Welsh Assembly Government's model standing orders for LHBs, the final decision to award the contract was delegated to the Chief Executive. At a workshop in January 2004, the Board agreed that the decision should be made by the Chief Executive and the Vice-Chair (the Chair had a conflict of interest which led to the Chair's authority being delegated to the Vice-Chair). Given that the contract related to a significant change in the provision of medical services directly to the public, and the high level of public interest in the out-of-hours service, it would have been more appropriate for the full Board to have taken the decision to award the contract. The Welsh Assembly Government's internal review concluded that "the awarding of a £1.9 million p.a contract to a private sector provider outside of a formal full Board decision is perhaps unwise" and that guidance should be reviewed to ensure that "an appropriate decision making framework is adequately captured within Cardiff LHB's standing orders and, more generally, across Wales."

### **There were deficiencies in Cardiff LHB's risk management before and after the decision to award the contract to CSUK**

#### **The LHB did not carry out in sufficient depth due diligence checks on the financial background and clinical experience of CSUK prior to awarding the contract**

**1.12** When CSUK submitted its tender bid to Cardiff LHB it was a new company, registered with Companies House in October 2003. Between December 2003 and September 2004, CSUK had a reseller's contract with Clinical Solutions Group, an American

software company that produces telephone algorithms to support nurse triage systems. The reseller contract entitled CSUK to sell, and provide support services for, Clinical Solutions Group software, but Clinical Solutions Group was not a parent company of CSUK. LHB officials told us that although the LHB had originally believed that CSUK was part of the Clinical Solutions Group, it subsequently discovered that CSUK was a new, standalone company during the evaluation of tenders, before the contract was signed.

**1.13** Although it is entirely appropriate for new companies to be awarded contracts where they are the best available supplier, there are particular risks inherent in contracting with relatively new companies. Organisations should consider these as part of their due diligence checks to verify that a company is a suitable one with which to contract. Particular risks associated with new companies include:

- cashflow shortages;
- the company being unable to meet unexpected costs;
- the company not having the experience or capacity to deliver the service; and
- overall service failure or compromised patient safety arising from problems relating to financial instability.

**1.14** Welsh Assembly Government guidance on commissioning out-of-hours services does not contain details of specific due diligence and background checks that should be carried out when awarding out-of-hours contracts. Similarly, Cardiff LHB's standing orders and guidelines give no firm guidance as to the background checks that need to be carried out to verify the viability and capacity of potential suppliers. However, guidance from the Office of Government Commerce -



*Supplier Financial Appraisal Guidance* - details the background checks that should be carried out into companies bidding for public sector contracts. These include: inspecting audited annual accounts; reviewing management accounts, profit and loss forecasts and the company's turnover that relates to the supply of the specific service; and securing a parent company guarantee if appropriate.

- 1.15** In March 2004, prior to the decision to award the contract to CSUK, Cardiff LHB wrote to CSUK requesting a copy of their annual accounts. Because CSUK was a new company, it was unable to provide annual accounts. Instead, it sent the LHB a copy of a letter from their accountants, stating that the company's bank account was "well in credit", but that they had "carried out no specific work with regard to our client's financial viability". The letter therefore provided the LHB with little assurance about CSUK's financial viability.
- 1.16** LHB officials told us that they did not ask to see management accounts or profit and loss forecasts, because it knew that CSUK was a new company and that its first few months in operation had been spent putting together their plans and bidding for contracts. The LHB understood that, unless the company was successful in its other bids for out-of-hours contracts, the Cardiff out-of-hours contract could be CSUK's main, if not only, source of income and that management accounts would have told them nothing new. However, examination of CSUK's management accounts would have confirmed or dispelled such assumptions. It would also have revealed whether or not CSUK had debts or liabilities likely to affect its financial viability and impact on the out-of-hours service.
- 1.17** In addition to financial viability, Cardiff LHB needed to be sure that CSUK had the requisite capacity and experience to provide

the out-of-hours service. LHB officials told us that while they were fully aware that, as a company, CSUK did not have experience of delivering the clinical service being commissioned, the contract was awarded to CSUK on the basis of the clinical experience of its senior management team. While the clinical experience of the individuals who would be running the service is an important factor, the LHB was contracting with a company and transferring significant responsibility and risk to that company. Consequently, regardless of the experience of individuals, the LHB also needed to be sure that the company itself was viable and capable of delivering the service.

- 1.18** As part of their background checks, the LHB's Chief Executive, nursing director and Vice-Chair conducted site visits to see services provided by both CSUK and Cardiff Doctors on Call. Usually, the purpose of such visits is to determine whether the supplier has the capacity and experience needed to provide the service in question. We found that the CSUK site visit was only loosely related to the provision of clinical services. The visit, to an out-of-hours service in Birmingham, involved meeting the CSUK team and seeing a small scale trial of Clinical Solutions Group's telephone algorithm software, run by CSUK. The software was installed on two PCs and was not integrated into, or used by, the wider out-of-hours service. Following the trial, the out-of-hours provider in Birmingham decided not to use the software. LHB officials told us that they were aware of the nature of CSUK's involvement in Birmingham and that the aim of the visit was to see the algorithms in operation and witness the interaction between the CSUK team and the provider organisation. As part of the background checks on the Consortium bid, the LHB's Chief Executive, Nurse Director and Vice-Chair conducted a site visit to Cardiff Doctors on Call, which was providing

a full out-of-hours service at the time. LHB officials told us that the visit had reinforced their earlier concerns about clinical governance at Cardiff Doctors on Call.

- 1.19** LHB officials also took up oral references for CSUK from two GP co-operatives, although they had not retained documentary records of these references. We found that the referees were potential customers of Clinical Solutions Group telephone algorithm software. One referee had purchased and used the software, and the other received a demonstration of the software from CSUK but did not use it. Neither of the referees had any experience of CSUK providing clinical services and they were poorly placed to provide an authoritative reference for CSUK's capacity to provide out-of-hours clinical services. LHB officials also took informal personal references for senior CSUK staff from those who had worked with them before they joined CSUK, although these too were not documented.

### **There were deficiencies in Cardiff LHB's risk management after the contract was awarded to CSUK**

- 1.20** LHB officials told us that the decision to award the contract to CSUK was taken on the balance of total risk. At the time of the decision, the LHB considered that the Consortium had ruled itself out of the competition by proposing a model of service delivery that did not meet the service specification and refusing to re-cost its bid. LHB officials told us that the LHB therefore had three options:

- it could re-tender, creating the risk that the service would not be operational by 1 October 2004;
- it could run the service itself; or
- it could award the contract to CSUK and manage the associated risks.

- 1.21** At the time of the decision, Cardiff LHB considered there were a number of factors that mitigated the risks associated with awarding the contract to CSUK:

- the LHB had retained all control of the primary care centre accommodation;
- call-handling was provided through a separate contract with Cardiff County Council;
- the workforce that CSUK was to use included a number of staff, transferred from Cardiff Doctors on Call, who had considerable experience in delivering out-of-hours services in Cardiff; and
- the licence agreement purchased to utilise the call-handling software was with the LHB, not CSUK.

- 1.22** Nevertheless, the decision to award the contract to CSUK still involved significant risks, particularly in the light of the company's lack of financial track record and direct clinical experience. Whilst it is entirely appropriate for commissioning bodies to take risks that are designed to innovate and improve services, such risks must be rigorously assessed and effectively managed. The Welsh Assembly Government's internal review recommended that Cardiff LHB "draw up a more detailed risk management strategy in the event that there is any failure in the new contractual arrangements". However, LHB officials told us that they had only recently received a copy of the review. Although the LHB has not drawn up a detailed risk management strategy, it did take some steps to manage the risks involved in awarding the contract to CSUK.

- 1.23** To address financial risks, the LHB's contract offer letter made the award of the contract conditional on CSUK providing a parent company guarantee from Clinical Solutions



Group, which would have provided the LHB with financial guarantees in the case of cashflow problems or service failure. However, at that time, CSUK only had a contractual arrangement with Clinical Solutions Group. Clinical Solutions Group was not the parent company of CSUK and therefore the contract was signed without a parent company guarantee. Further, in July 2004, Clinical Solutions Group notified CSUK that its reseller's contract was to be terminated in September 2004. In March 2005, CSUK was sold to SERCO, a multinational company, which subsequently provided the LHB with a parent company guarantee. However, between October 2004 and March 2005, the out-of-hours service was provided by a company with no financial track record or parent company guarantee.

**1.24** Cardiff LHB also took steps to manage potential cashflow risks. LHB officials told us that because the out-of-hours contract for Cardiff would make up most, if not all, of CSUK's income, they had introduced a flexible payment scheme. The LHB provided an up-front payment for set-up costs to cover work CSUK had already carried out to prepare to deliver the service, and agreed to pay the contract fee on a monthly basis, with the money going into CSUK's accounts at the end of the month to ensure the availability of sufficient funds to cover payroll costs. However, given that Cardiff LHB recognised cashflow as a risk and was unable to secure a parent company guarantee, it should also have ensured it received regular reports on CSUK's finances in order to manage the risk to the viability of the out-of-hours service.

**1.25** The LHB included a condition in its contract offer letter that sought to manage risks associated with CSUK's lack of direct clinical experience. Recognising that CSUK's clinical experience lay with its senior employees, rather than the company itself, Cardiff LHB made the award of the contract conditional

upon three named CSUK staff being employed in the positions of out-of-hours business director, medical director and a role overseeing the recruitment and training of nursing staff. Although this partly addressed the risks posed by CSUK's lack of direct clinical experience, the risk remained that, subsequent to award of the contract, those named CSUK employees would take up employment elsewhere.

**1.26** Cardiff LHB sought assurances from CSUK regarding risks posed by termination of the reseller contract with Clinical Solutions Group. LHB officials told us that they were aware from a very early stage that the relationship between CSUK and Clinical Solutions Group was unlikely to continue, and they recognised that the main risk posed by the termination of the reseller's agreement would be CSUK's loss of access to the Clinical Solutions Group algorithm software. Although the LHB was aware that there were other software packages available that could be substituted, CSUK's use of the algorithms was a key part of their successful bid. LHB officials told us that, in order to manage this risk, the LHB had secured written confirmation from CSUK that the company would be able to continue to use the algorithms in the event of termination of the reseller's agreement. However, LHB officials did not confirm this with the Clinical Solutions Group.

**1.27** In addition to the action taken to manage the risks in the contract, LHB officials told us that the LHB had a contingency plan to run the out-of-hours service itself in the event of service failure. However, the plan had not been documented. Given the importance of the out-of-hours service and the significant risks taken in awarding the contract to CSUK, Cardiff LHB should have developed and documented a comprehensive contingency plan detailing the steps to be taken should the service fail.

## **A briefing for LHB Board members, subsequent to the decision to award the contract to CSUK, was potentially misleading**

- 1.28** Although authority to award the out-of-hours contract was delegated to the Chief Executive and Vice-Chair, Board members remain accountable to the local community and should therefore have been informed about the contract award, the reasons for it, and the associated risks and benefits. On 5 April 2004, the Chief Executive of Cardiff LHB sent a briefing note to all Board members to inform them of the decision to award the out-of-hours contract to CSUK. Throughout, the briefing note referred to the contract between the LHB and 'Clinical Solutions Group', and the extensive experience of Clinical Solutions Group staff, with no mention of CSUK. However, the minutes of a Board meeting on 7 April correctly recorded the fact that the contract had been awarded to CSUK.
- 1.29** The briefing note of 5 April 2004 also made several references to the international experience of Clinical Solutions Group, focusing on the provision of services in South Africa, South America, New Zealand and Australia. These references reported information supplied to the LHB by CSUK. We found that whilst the Clinical Solutions Group was indeed operating in these countries, it was on a smaller scale than that suggested in the briefing. The Clinical Solutions Group provides clinical decision making support software, but does not, as the briefing suggested, manage and operate call centres, nor does it provide clinical care direct to patients anywhere in the world.
- 1.30** The Chief Executive of the LHB told us that she had provided the briefing in good faith and had accepted the information provided by CSUK at face value. She told us that it was

only included in the Board briefing as background information and was not material to the decision to award the contract to CSUK. However, given that the LHB knew that CSUK was a standalone company at the time the contract was awarded, it is unclear why the experience of Clinical Solutions Group should have been included in the Board briefing. Although we found no evidence to suggest that this experience was material to the decision to award the contract to CSUK, in our view it gave the impression that the out-of-hours contract had been awarded to a large, established international company with extensive relevant experience. In fact, the Chief Executive and Vice-Chair had decided to award the contract to a brand new company with no experience of direct clinical service provision. In these circumstances; Board members should have been informed of the associated risks and how the LHB planned to manage them.





## Part 2: There were deficiencies in the LHB's contract management – the additional £58,726 awarded to CSUK did not offer good value for money as it represented a payment to enable CSUK to manage risks it had already accepted under the terms of the contract

### The contract transferred a number of risks to CSUK, some of which were not within CSUK's control

- 2.1** The contract between the LHB and CSUK was for the provision of the entire out-of-hours service, excluding call handling, at a fixed price of £1.9 million, and was agreed on the basis of an indicative activity profile and specific quality standards. Under the contract, which followed the Welsh Assembly Government's model, significant financial, delivery and clinical risks were transferred to CSUK, with Cardiff LHB retaining responsibility for monitoring the implementation of services.
- 2.2** The contract transfers significant financial risk to CSUK. The terms of the contract state that the only sum payable by Cardiff LHB is the contract price, which can only be changed through an agreed variation to the contract. The potential risks of any increased or unexpected costs were explicitly made the sole responsibility of CSUK. For example, LHB officials told us that CSUK had absorbed significant additional costs hiring GPs to staff the out-of-hours service, because of intense competition for their services out-of-hours as more and more GPs opted out of this type of work.
- 2.3** Elements of clinical risk were transferred under the contract, which obliges CSUK to follow protocols "to ensure clinical staff are able to meet the range of performance standards included in the full service specification". Performance standards
- include timescales for calling back patients. The LHB has the role of monitoring whether the standards are being met, and the contract states that where the performance of the contractor does not meet the required standards, the LHB may make a deduction from payment. However, the LHB retains ultimate responsibility for managing clinical governance and patient safety risks.
- 2.4** The risks associated with adequately staffing the services were also transferred under the contract. The service specification says that "an appropriate health care professional" should provide telephone triage services, and that patients needing to see a GP will be assessed by a GP in either a primary care centre or through a domiciliary visit. The contract does not specify how many staff would be needed to deliver the service specification. Consequently, responsibility for designing and implementing an appropriate staff rota fell to CSUK, although the LHB's Nurse Director worked closely with CSUK to set up the new service and provided assistance in drawing up staffing plans.
- 2.5** The contract sets out an indicative annual activity profile, and there is no provision for extra funding should demand exceed that forecast, or for a reduction in funding should demand be lower than forecast. Consequently, demand risk was transferred to CSUK. However, CSUK has little control over the levels of demand for out-of-hours services, and it would have been reasonable for the company to have included a premium in the contract price to cover the likelihood of this risk being realised.

## Cardiff LHB awarded CSUK £58,726 to manage the clinical risks arising from a perceived increase in demand

**2.6** Although, under the terms of the contract, CSUK is responsible for ensuring that the out-of-hours service is provided to the clinical standards set out in the specification, the LHB has the ultimate responsibility to manage risks to patient safety. Consequently, the LHB might reasonably be expected to respond to any significant clinical risks arising, for example, from demand significantly exceeding the levels set out in the specification. LHB officials told us that it would be unreasonable to expect a provider, regardless of whether it was a private company, GP co-operative, voluntary organisation or NHS Trust, to absorb an increase in demand of more than 10 per cent over the service specification, and that it would award additional funding in such circumstances, regardless of the terms of the LHB's relationship with the provider.

**2.7** Between October 2004 and March 2005, Cardiff LHB awarded CSUK additional funds totalling £58,726 to manage clinical risks associated with what it perceived to be an unprecedented increase in demand (**Table 1**). The LHB's executive team took the original decision to award additional funding for six weeks on the 19 October 2004, just two weeks after the contract started. The LHB formalised this through contract variations covering the period between 23 October 2004 and 27 March 2005.

**Table 1: Additional payments awarded to CSUK**

Dates	Rate per weekend	Total
23 October 2004 to 5 December 2004	£2,828	£19,802
11 December 2004 to 19 December 2004	£2,828	£5,657
26, 27 and 28 December 2004		£7,020
31 December 2004 and 1, 2 and 3 January 2005		£7,293
8 January 2005 to 23 January 2005	£2,340	£7,020
29 January 2005 to 27 March 2005	£1,326	£11,934
		<b>£58,726</b>

*Source: Wales Audit Office analysis of data supplied by Cardiff LHB.*

**2.8** Cardiff LHB has been unable to provide documentary evidence relating to the original decision to award the additional funding to CSUK. LHB officials told us that two weeks after CSUK started operating the services, they had become concerned that on Saturday and Sunday mornings call back times for nurse triage were exceeding the levels set out in the service specification, and posed a risk to patient safety. The LHB believed, based partly on increased demand for emergency services in general, that the main cause of the delays was an unprecedented increase in demand, although there was no data available at the time of the original decision to support this view. LHB officials told us that the problem was exacerbated by nurses taking longer than anticipated to triage patients during their induction period, and the level of additional funding was based on the cost of recruiting extra nurses to provide triage at weekends. The extra funding was made on a short-term basis to allow the LHB to consider re-profiling options, allow nurses time to adapt to the new system and increase their triage rates, and to accumulate data to assess any seasonal fluctuations.



**2.9** On 8 December 2004, CSUK provided the LHB with a business case to support their request for an extension of the additional funding. In the business case, CSUK claimed that there had been an ‘unprecedented’ rise in activity at weekends during November, from a planned 2,352 cases to 2,840 cases actually handled (**Table 2**). CSUK claimed this to be an increase of 44 per cent, rather than the 21 per cent increase over their plans it actually represented. The mistaken calculation was caused by CSUK adding together a 13 per cent variance on Saturdays and a 31 per cent variance on Sundays, rather than calculating the total variance (488) as a percentage of the total planned activity (2,353), which gives a variance of 21 per cent.

**Table 2: Evidence of increased demand supplied by CSUK (four weekends between 13 November and 5 December 2004)**

	Planned Activity	Actual	Variance	Percentage variance reported by CSUK	Actual percentage variance
Saturday	1,347	1,524	+177	+13.1%	+13.1%
Sunday	1,005	1,316	+311	+30.9%	+30.9%
Total	2,352	2,840	+488	+44.0%	+21.0%

Source: CSUK business case for additional funding 8 December 2004.

**2.10** The claim of an increase in weekend demand reported by CSUK was made against its own planning assumptions, rather than the activity levels set out in the contract, and CSUK’s business case excluded data on weekday or total demand. The contract includes an annual activity profile only, and LHB officials told us that they had not calculated or agreed an activity profile for weekends as part of the contract. Consequently, the business case fails to demonstrate that demand had increased above contracted levels. Furthermore, the business case indicates that CSUK’s planning

assumptions had been based on the original activity profile, rather than the higher profile that included the 12 per cent increase to cover Saturday morning activity agreed at the time the contract was awarded. Despite the miscalculations and lack of clarity regarding the projections of demand, Cardiff LHB subsequently drew up contract variations which cited an “unprecedented increase in demand” as the basis for providing CSUK with additional funding to the end of March 2005.

**Demand for out-of-hours services provided by CSUK during October and November 2004, which triggered the additional payments to CSUK, did not exceed the activity levels set out in the contract**

**2.11** The tender specification originally issued by the LHB set out a forecast activity profile of 62,116 cases a year, averaging 5,176 cases a month. During the evaluation of tenders, the LHB increased the profile by 12 per cent to cover Saturday morning activity, taking total activity to 69,570 cases a year, averaging 5,797 cases a month. The 12 per cent figure was based on data provided by Cardiff Doctors on Call, who ran a Saturday morning out-of-hours pilot in parts of Cardiff from November 2003.

**2.12** LHB officials told us that in October and November 2004, demand for CSUK’s out-of-hours services far exceeded the levels forecast in the service specification. This claim was repeated in correspondence with the Local Medical Committee, Board papers and press releases. They told us that a comparison of the ‘total calls handled’ in October 2004 of 7,575 with the monthly average of 5,176 cases in the original service specification showed that demand for the services CSUK was contracted to provide had increased by 46 per cent over the contracted levels.

**2.13** However, ‘total calls handled’ in October and November 2004 is not an appropriate measure of CSUK’s activity during that period. The figure reported by the LHB as ‘total calls handled’ in October and November 2004 represents the total number of out-of-hours calls handled by Connect 2 Cardiff, the Cardiff Council call centre separately contracted to provide call handling services. A large proportion of these calls (36 per cent in October and 27 per cent in November 2004) was not passed on to the clinical service and required no response at all from CSUK.

**2.14** Cardiff LHB collects data on the total clinical activity of CSUK, which covers the clinical outputs set out in the service specification. Although this data was not available to the LHB at the time it made its decision to award additional payments to CSUK, our analysis shows that, in October and November 2004, CSUK’s total monthly activity rate was less than the monthly averages in both the original service specification and the revised specification (**Table 3**). Also, our analysis of CSUK’s activity on Saturday mornings in October and November 2004 shows that demand was less than the 12 per cent forecast (**Table 4**).

**Table 3: Monthly activity rates**

Original specification average	Revised specification average (including extra 12%)	CSUK Activity - October 2004 (1)	CSUK Activity - November 2004 (1)
5,176	5,797	4,838	4,538

Source: (1) Cardiff LHB activity report.

**Table 4: Saturday morning activity**

	Predicted (1)	CSUK October 2004 (2)	CSUK November 2004 (2)
Average Saturday morning activity	143	123	134
Average activity per hour	36	31	34

Source: (1) The service specification forecast a 12 per cent increase over the original service specification of 62,116 cases for Saturday morning activity, amounting to an estimated 7,454 Saturday morning cases. Dividing this figure by 52 gives 143 cases for an average Saturday morning, and an hourly average of 36 cases.

(2) Cardiff LHB monitoring data showing CSUK’s hourly activity rates on Saturday mornings between 8 am and 12 am.

**2.15** We also found no evidence that, since November, demand for the out-of-hours service provided by CSUK has significantly exceeded the levels agreed at the time the contract was awarded. In April 2005, CSUK reported that there had been 32,500 contacts during the first six months of the service. This represents a monthly average of 5,416 contacts - 7 per cent below the revised specification. This six month period - November 2004 to April 2005 - includes the busy winter months when demand is at its highest.



## The additional funding awarded to CSUK did not provide good value for money

**2.16** In light of the evidence presented above, LHB officials have told us that they accept the additional payments to CSUK would not have been appropriate if they had been made solely on the basis of increased demand. However, the LHB maintains that the extra funding was appropriate to manage the clinical risks posed by unsafe call back times. LHB officials told us that, regardless of demand levels, it would have been unreasonable to expect CSUK to absorb the costs of hiring the additional nurses needed to provide a safe service, because:

- CSUK had absorbed cost pressures arising from higher than anticipated rates of pay for medical staff;
- nurse triage rates had been slower than CSUK had anticipated;
- the service needed a critical mass of staff during weekdays, which limited the potential to shift staff from weekdays to weekends; and
- the service was new and seasonal variation activity data was not available to front load staff resourcing to winter months from summer month levels.

**2.17** However, the terms and conditions of the contract transferred to CSUK the risks associated with adequately staffing the service at all times, including rising medical costs and staff efficiency issues. The increase in pressure on primary and secondary care during the winter months is well documented, and it would have been reasonable to expect any planning assumptions to reflect this. In any case, the contract transfers the risks associated with demand fluctuations to the provider, and it would only be appropriate to

make additional payments if there was clear evidence that demand had exceeded the contract beyond a reasonable level. Clearly this was not the case when Cardiff LHB awarded additional funding to CSUK.

**2.18** The LHB awarded additional funding to manage risks that had already been transferred to CSUK under the contract. The additional funding therefore secured no additional services beyond those CSUK was required to provide under the terms of the contract, and represented poor value for money. At the end of March 2005, Cardiff LHB ceased making additional payments to CSUK and requested that the company reconfigure the service to take account of peaks of demand on Saturday and Sunday mornings, within the cost profile set out in the contract.