

Cyfarwyddwr Cyffredinol Iechyd a Gwasanaethau Cymdeithasol/  
Prif Weithredwr GIG Cymru  
Grŵp Iechyd a Gwasanaethau Cymdeithasol

Director General Health and Social Services/  
NHS Wales Chief Executive  
Health and Social Services Group



Llywodraeth Cymru  
Welsh Government

To:

Mark Isherwood MS  
Chair, Public Accounts  
and Public  
Administration  
Committee

17<sup>th</sup> May 2023

Dear Mr Isherwood

**Public Accounts and Public Administration Committee – Questions on new Velindre Cancer Centre (nVCC)**

Thank you for your letter dated 23<sup>rd</sup> March.

**1. Governance Arrangements**

1.1 Prior to consideration of the answers to the questions submitted, we wanted to provide you with an overview of the robust strategic and operational governance related to the development of the new Velindre Cancer Centre (nVCC). We hope this context will support the direct answers to your specific questions.

1.2 The Project Governance Arrangements work on three levels:

- Welsh Government (Strategy & Policy)
- Velindre University NHS Trust (Corporate)
- Velindre University NHS Trust (Operational / Project)

## 2. Welsh Government (Strategy & Policy)

Below is a table outlining the Welsh Government Structures and how they operate.

<b>Group/Board</b>	<b>Overview</b>
<b>MIM Velindre Health Strategic Board (HSB)</b>	Monthly meeting chaired by Deputy Chief Executive NHS Wales, attended by VUNHST Chief Executive and nVCC & Enabling Works Project Director to support the management of the MIM processes, provide progress updates, challenge project delivery, discuss rationale for MIM Policy derogations and provide a point of escalation.
<b>Welsh Government Advisory Group Business Case Scrutiny</b>	Business cases are scrutinised by a multi-disciplinary team of Welsh Government officials and external advisors, including clinical, workforce, policy, planning, finance, economists and estates professionals in order to consider the strategic, economic, commercial, financial and management cases for the spending proposal against the investment objectives and criteria. Their feedback and recommendations feed into the Infrastructure Investment Board.
<b>Welsh Government Infrastructure Investment Board (IIB)</b>	The IIB's remit includes ensuring that all investments fit with the strategic direction of the NHS and infrastructure Investment objectives and meet the specified investment criteria. Subject to the IIB's support, formal advice and recommendations are presented to the relevant Minister as described above.
<b>Welsh Ministers</b>	<p>The MIM Pipeline and associate projects bridge two Government Departments, namely Treasury and Health. The final signoff of the nVCC scheme authorising VUNHST to proceed into procurement is that of the Welsh Ministers. The Welsh Government MIM assurance framework includes Commercial Approval Points (CAPs) which have considered at various points to date the impact of project-specific commercial factors in relation to:</p> <ul style="list-style-type: none"> <li>• Affordability;</li> <li>• Value for Money;</li> <li>• Deliverability; and</li> <li>• Commercial and compliance aspects of a Project.</li> </ul>

## 3. Additional External Assurance

### 3.1 Gateway or Project Assurance Reviews process

The development of the new Velindre Cancer Centre is subject to the Gateway and Project Assurance Reviews process - a standard part of the business case process required by the UK and Welsh Treasuries for all large infrastructure projects. The Infrastructure Projects Authority (IPA) Gateway Review process examines Projects at key decision points in their lifecycle. As part of this process, an independent expert team assesses the delivery confidence of a Project or Programme.

### **3.2 Business Case approval**

The development of the new Velindre Cancer Centre project has followed the Welsh Government's five case model guidance in developing the relevant business cases. It was included in the Strategic Outline Programme for the Transforming Cancer Services programme in 2015; in the Programme Business Case developed in 2017.

There are a number of business case processes which form part of the Transforming Cancer Services Programme:

- The Enabling Works Project Full Business Case was approved in February 2022. This part of the programme is the preparation of the site and building the necessary roads and bridges. The work started in February 2022 and is nearing completion.
- The Radiotherapy Satellite Centre Full Business Case was approved in September 2022. This is to build a centre at Abergavenny in order to improve accessibility to tertiary cancer care across the region. The work is underway.
- The Integrated Radiotherapy Solution Full Business Case was approved in September 2022. This is for the provision of ten Linear Accelerators, eight of which will be in nVCC and two in the Radiotherapy Satellite Centre in Abergavenny. Following a robust procurement process the contract has been awarded and work on implementation for both sites is in progress.
- The Outline Business Case for the nVCC was approved in March 2021. The Acorn Consortia was selected as the Successful Participant of the competitive dialogue to design, build, finance and maintain the nVCC in July 2022 following a robust nine month competition. Following the conclusion of the competition phase of the procurement process, the Trust proceeded to the "Successful Participant to Financial Close" stage which is ongoing as we write. Full Business Case will be submitted for approval in line with Financial Close with the Acorn Consortia.
- The nVCC Business Case has an important emphasis on wider community benefits. These include:
  - Recruitment and training of unemployed and economically inactive people.
  - New apprenticeships, particularly for young people aged 16-24 who are NEET/LTE or a Disadvantaged Worker
  - Supply chain initiatives for SMEs and social enterprises.
  - Minimising adverse environmental impact, making a positive impact on the environment
  - Educational initiatives: engagement, STEM subjects, and career workshops
  - Engagement with the third sector
  - Community initiatives, to support community engagement, regeneration, the Welsh language and culture and community cohesion

The development of all the Business Cases (have been subject to scrutiny and assurance within Velindre University NHS Trust; external reviews (Gateway reviews and commercial approval point reviews, where appropriate); scrutiny by commissioning University Health Boards and scrutiny from the Welsh Government's Infrastructure Investment Board prior to Welsh Government Ministers' consideration.

4. **Velindre University NHS Trust (Corporate) – and Velindre University NHS Trust (Operational / Project)**

All work associated with the nVCC development is subject to the following internal scrutiny:

<b>Group/Board</b>	<b>Overview</b>
<b>Velindre University NHS Trust Board</b>	<p>The role of the Trust Board is to:</p> <p>Set the Trust’s strategic direction.            Establish and uphold the Trust’s governance and accountability framework, including values and standards of behaviour.            Ensure delivery of the Trust’s aims and objectives through effective challenge and scrutiny of performance.</p> <p>The Trust Board is a corporate decision-making body who reserve the right to approve all financial commitments exceeding the Chief Executive’s financial limit (currently £100k). The Board holds the Chief Executive (Senior Responsible Owner) accountable for the delivery of the nVCC Project.</p> <p>The Trust Board receives reports relating to the nVCC Project at every meeting. The report gives the Trust Board full visibility of how the nVCC project is performing to time, cost and quality. It also informs the Trust Board of progress against plan, notable project risks and issues, and asks the Trust Board to consider approving matters that exceed the delegated authority of the nVCC Project Board.</p>
<b>TCS Programme Scrutiny Sub Committee</b>	<p>The nVCC Project Board is assured by a TCS Scrutiny Committee made up of Independent Members and attended by the SRO, Programme Director, Project Director and other Trust Officers.</p> <p>The TCS Scrutiny Sub-Committee reports to the Trust Board.</p>
<b>Strategic Capital Board (replacing Programme Delivery Board)</b>	<p>The Strategic Capital Board is responsible for leading and coordinating the development and delivery of the Trusts Infrastructure programmes.</p> <p>The Strategic Capital Board will have delegated Approval authority (when applicable) on behalf of the VUNHST.</p>
<b>nVCC and Enabling Works Project Board</b>	<p>The nVCC Project Board is a decision making board that has the relevant delegations (approved by the Trust board) to manage the delivery of the nVCC Project. It is chaired by Project Director. The nVCC Project Board oversees the Design, Procurement, Construction and Commissioning of nVCC.</p>

5. **Internal Audit**

NHS Wales Shared Services Partnership provides Internal Audit services to Velindre. The nVCC project forms an integral part of the Trust's annual audit cycle due to its significance to the organisation. There is a continuous stream of Internal Audit reviews of the Project and Internal Audit representative attends the Enabling Works/nVCC Project Board. Since the start of 2022, there has been five Internal Audit reviews undertaken to date, three of which were assessed as Substantial assurance (Green), one Reasonable (Yellow) and one Limited (Amber).

Both enabling works and nVCC projects were managed separately for a number of reasons, including the different funding model developed for both. The project boards meet on a monthly basis to review progress, risk and benefit. The project is considered as part of the wider Transforming Cancer Services programme

## 6. PAC Questions

### **1. Confirmation of the current status of the contractual arrangements for the main MIM contract, and any other related contracts.**

1.1 There are a number of business cases related to the development of the new Velindre Cancer Centre. As outlined above in the context of the assurance framework, these are:

- The Enabling Works Project Full Business Case, approved in February 2022.
- The Radiotherapy Satellite Centre Full Business Case, approved in September 2022.
- The Integrated Radiotherapy Solution Full Business Case, approved in September 2022.
- The Outline Business Case for the nVCC, approved in March 2021. Full Business Case will be submitted for approval in line with Financial Close with the Acorn Consortia.

1.2 The Acorn consortium team includes Kajima Partnerships, Sacyr, Abrdn, Andrew Scott, Kier Facilities Services, White Arkitekter, Arup, MJ Medical, Turley, Studio Response, Camlins Landscape Architects, Osborne Clarke, Operis and Confab Lab.

### **2. Details of the due diligence undertaken at different stages of the procurement process for the MIM contract, including how/whether the concerns around Kajima noted above have featured in that process, any additional assurances that have been sought as a result, or any relevant safeguards that are being reflected in the contracting arrangements.**

2.1 Velindre has obtained information and has sought further information and assurance from the Acorn consortium in connection with the following ongoing proceedings:

- a. administrative proceedings by the Comisión Nacional de los Mercados y la Competencia in Spain of 7 July 2022, in relation to alleged collusion in Spain that are subject to an appeal by Sacyr Construcción S.A (the "**Sacyr Proceedings**"); and
- b. administrative and alleged criminal proceedings in respect of alleged breaches of the Japanese Antimonopoly Act against Kajima Corporation and one of its

employees, last heard in the Tokyo High Court of Appeal in early March 2023, and that are subject to an appeal by Kajima Corporation and the relevant employee (the “**Kajima Proceedings**”).

Sacyr Construcción S.A is the Construction Contractor Guarantor on the Project.

2.2 Kajima Corporation is not directly involved in the Project but is the ultimate parent company of Kajima Partnerships Limited (Developer/ shareholder) and Kajima Europe Ltd (Financial Support Provider to Kajima Partnership Ltd).

### **Procurement Process**

2.3 The procurement process was designed with Velindre’s legal advisors in accordance with, and when undertaken, was compliant with best practice, the Public Contracts Regulations 2015 (the “Procurement Regulations”) and Welsh Government guidance.

2.4 The Pre-Qualification Questionnaire (PQQ) for the Project was developed using the MIM Standard Form PQQ published by Welsh Government for MIM projects (with tailoring to certain non-mandated aspects to reflect market conditions and sector and project specific matters). Exclusion grounds were included in Part 2 (Exclusion Grounds) of the PQQ, in accordance with Regulation 57 (Exclusion Grounds) of the Procurement Regulations.

2.5 There are two exclusion grounds which are of particular relevance to the proceedings regarding “Competition Exclusion Ground” and “Criminal Conviction Ground.”

2.6 PQQ Responses to Part 2 of the PQQ were evaluated by the Legal Evaluation Team. The Economic Operators within the Acorn Consortium answered no to both questions referred to above and passed Part 2 (Exclusion Grounds) of the PQQ. The evaluation approach to these questions was consistent with Regulation 59 (Single Procurement Document) of the Procurement Regulations.

2.7 Sacyr appropriately answered No to both questions in the PQQ, given there are no final binding judgements on the Sacyr Proceedings. However, in the spirit of full and transparent dealings, and at the same time, Acorn provided additional further information to their PQQ, to confirm that it had given written notice of its intention to file a challenge of the decision. They confirmed that they would present this to the High Court Justice in Spain before the deadline of October 2022, together with a request for a precautionary measure (which is the interim application for the full suspension of the decision (including payment of the fine)). This was therefore taken into account during the selection process and legal advice confirmed is as an appropriate position. The challenge was subsequently filed by Sacyr prior to the October 2022 deadline.

### **Subsequent Diligence and Assurance & Contractual Context**

2.8 During the procurement process Velindre has sought additional information from the Acorn Consortium on these proceedings. The information requested has been provided.

2.9 To the extent appropriate and records were available, the procedural information provided by the Acorn Consortium on the Sacyr Proceedings and Kajima Proceedings has been verified by Velindre’s legal advisers through checks of the relevant court records.

2.10 The verified information has been taken into account by Velindre and its legal advisers to assess whether the Sacyr Proceedings or the Kajima Proceedings impact on the PQQ evaluation. In summary, on the basis of that information and as there are no final binding judgements on the Sacyr Proceedings or the Kajima Proceedings, the outcome of these assessments is that there is currently no change in circumstances which would result in the Acorn Consortium failing the PQQ Criminal Conviction Ground or Competition Ground.

2.11 Were there to be final binding judgements in either the Kajima Proceedings (concerning Kajima Corporation) or the Sacyr Proceedings, against the relevant entities during the procurement process, the Acorn Consortium would be required to provide further information to Velindre in keeping with its obligations under the procurement documents. In that scenario, the Authority would expect the Acorn Consortium to provide the necessary level of evidence required to satisfy the *self-cleaning* provisions under Regulations 57(13) to 57(16) providing the appropriate level of proof under Regulation 60 (Means of Proof). Self-cleaning includes action such as: paying necessary compensation; taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct; and the measures taken by the economic operator are evaluated taking into account the gravity and particular circumstances of the criminal offence or misconduct.

2.12 Notwithstanding the fact there has been no final finding of distortion of competition, there is further assurance that Velindre would take from undertaking checks on information akin to self-cleaning at this time. This process is currently underway with the Acorn Consortium and will be completed prior to Financial Close. The assessment of self-cleaning information will reflect what would have been required under Regulations 57(13)-57(16) and the evaluation methodology outlined in the Descriptive Document for the Project, where there had been an adverse final decision in respect of the Sacyr Proceedings and/ or the Kajima Proceedings (relevant to Kajima Corporation) during the Procurement Process.

**3. A breakdown of the costs to date of the project to develop the new Centre, and of current estimated lifetime project costs including the MIM contract. We would also ask for any comparison that can be provided with estimates earlier in the project lifecycle at key decision points (eg. full business case approval), and an explanation of the main reasons behind any cost increases**

3.1 The total cost of the costs to date of the project to develop the new Velindre Cancer Centre itself (from 2014 up to the end of March 2023) are £16.3 million. These costs include project management, legal, design, planning and all other expert advice since 2014.

The table below shows the costs related to the overall Transforming Cancer Services Programme from 2014:

<b>Workstream</b>	<b>Cost to date as at March 2023</b>
nVCC & Transforming Cancer Services Wider Programme	£18.874m
Enabling Works	£19.99m
Integrated Radiotherapy Solution	£9.01m

3.2 The Full Business Case is in preparation, but a relevant reference point is the budget agreed in summer 2022 at the conclusion of the competitive dialogue process. This was an annual service payment for the MIM of c £29m and that includes 25 years of maintenance costs, 25 years of lifecycle replacement, the full capital cost of the building and all borrowing costs. This budget would be subject to changes to inflation and base rate. Any such changes

would need to be reflected in the Successful Participant to Financial Close phase of the MIM procurement process.

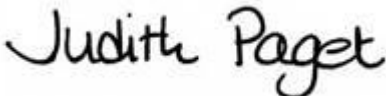
**4. Details of the current timeframe for completion of the construction phase of the project and opening of the new Centre, again compared with estimates at key points earlier in the project lifecycle.**

4.1 The historical target was to treat the first patient in Quarter 2 of 2025/26 and be fully operational following transition in Quarter 3 2025/26. The Full Business Case once finalised will confirm the construction programme and refresh these target dates once all commercial aspects have been finalised.

**5. Confirmation of whether, in advance of agreeing the MIM contract, there has been any reassessment by the Welsh Government and/or the Trust of the overall business case for the project given the impact of inflationary pressures or other factors, including whether the Welsh Government and the Trust remain satisfied that the plans for the new Centre provide the best value for money and a sustainable clinical solution for the longer term (across the lifetime of the MIM contract and well beyond).**

5.1 We can confirm that the conclusion of the Financial Close of the contract with Acorn is underway. Further information regarding the details of the contract are currently subject to commercial sensitivities and therefore cannot be disclosed at this time. As previously noted, all major infrastructure projects and their related capital and borrowing costs are subject to changes to the global economy and markets and their subsequent impact on the UK inflation rate. However, we can confirm that the Full Business Case, which will be considered by the Welsh Government, requires the inclusion of the Public Sector Comparator (PSC) which is the key management tool in the quantitative assessment of Value for Money for public sector infrastructure projects.

Yours sincerely



**Judith Paget CBE**



**Steve Ham**