

Welsh Language Standards Compliance

Final Internal Audit Report

September 2021

Cwm Taf Morgannwg University Health Board

NWSSP Audit and Assurance Services



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Acknowledgement

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Executive Summary

Purpose


To provide assurance over the arrangements the Health Board has in place for achieving compliance with the Welsh Language Standards Regulations 2018.

Overview

Key matters arising concerned:

- We have identified that there are limited processes in place for reporting on the monitoring of compliance with the Standards.
- The Welsh Language Standards Working Group has not met for over a year, and its remit needs to be reviewed.
- The current resources within the Welsh Language team is limited, with only one person overseeing the work required for the Health Board to achieve the 124 standards set out in the compliance notice issued by the Welsh Language Commissioner.

Report Classification

		Trend
 <p>Reasonable</p>	<p>Some matters require management attention in control design or compliance.</p> <p>Low to moderate impact on residual risk exposure until resolved</p>	<p>N/A – first review</p>

Assurance summary¹

Assurance objectives	Assurance
1 Action Plans	Reasonable
2 Resource	Limited
3 Monitoring & Reporting	Limited
4 Staff Awareness	Substantial
5 Risk	Reasonable

Matters Arising

Matters Arising		Assurance Objective	Control Design or Operation	Recommendation Priority
1	Existence of action plans	1	Operation	Medium
2	Staff resources	2	Operation	High
3	Operation of working group	3	Operation	High
4	Reporting of compliance monitoring	3	Operation	High
5	Welsh Language Policy	4	Operation	Low
6	Risk register	5	Operation	Medium

¹ The objectives and associated assurance ratings are not necessarily given equal weighting when formulating the overall audit opinion.

1. Introduction

- 1.1 Our review of the Welsh Language Standards Compliance was completed in line with the 2021/22 Internal Audit Plan for Cwm Taf Morgannwg University Health Board (the 'Health Board').
- 1.2 In March 2018, Assembly Members voted in favour of the Welsh Language Standards [No 7.] Regulations 2018. The two key principles that underpin the regulations are that:
 - in Wales, the Welsh Language should be treated no less favourably than the English language; and
 - persons in Wales should be able to live their lives through the medium of the Welsh language if they choose to do so.
- 1.3 The financial penalty for non-compliance with the Standards could be a civil penalty of up to £5,000 per breach.
- 1.4 In July 2018, the Welsh Language Commissioner (the 'Commissioner') issued a draft compliance notice to all Welsh health organisations. After a twelve-week consultation period, responses on the reasonableness and proportionality of implementing each Standard were submitted to the Commissioner by all Welsh health organisations. Final compliance notices were issued in November 2018. The Health Board's notice identified the need to comply with 124 Standards: 93 by May 2019; and 31 by November 2019.
- 1.5 The Health Board is progressing action plans that set out how it and its departments will achieve compliance with the Standards. The risks associated with the failure to be fully compliant with the Standards is captured on the Health Board's organisational risk register.
- 1.6 The ability to implement action plans has been affected by the Covid-19 pandemic, which has been recognised by the Welsh Language Commissioner.
- 1.7 The relevant lead for the review is the Executive Director for People.
- 1.8 The potential risks considered in the review are as follows:
 - Financial penalties and reputational damage if the Health Board is unable to comply with the regulations, within the timescales agreed with the Welsh Language Commissioner.
 - Patients that request communication in the Welsh language are treated inequitably.
- 1.9 This audit focused on the actions the Health Board has taken to assess the impact of, and achieve compliance with, the Standards. We did not assess compliance with the Standards.

2. Detailed Audit Findings

Objective 1: To provide assurance over the process for creating implementation action plans in response to the compliance notice issued by the Welsh Government.

- 2.1 When the compliance notice was first issued to the Health Board at the end of 2018 the Welsh Language Manager prepared template action plans for relevant departments and requested they complete them with details of the actions they proposed to take to implement the Standards in their area. We understand that the return rate of completed action plans was low.
- 2.2 As a consequence of the low response rate, changes to the Health Board's operating structure, and to reflect the progress that had been made, four overarching action plans were created in the areas of: Communication; Corporate Services; Workforce & OD; and ILGs. Communications, Corporate Services and Workforce & OD had action plans distributed to them in late 2020, whilst the three ILGs were sent their plans in April 2021.
- 2.3 From the work undertaken by the Welsh Language Manager in preparing the four overarching action plans, we have seen the progress made by the Health Board since the compliance notice was first received by the Health Board. This included the development of a five-year plan for increasing Welsh language clinical consultations.
- 2.4 The action plans are detailed as they clearly link back to the Standards, actions have been grouped together where they link to more than one Standard, they have been RAG rated to allow prioritisation and the plans themselves have been tailored to the four key relevant areas of the Health Board.
- 2.5 We identified that improvements could be made to the action plans as they do not specify named individuals with responsibility for implementing an action or overseeing implementation. Generic post titles used, for example 'Practice Manager' or 'Ward Manager' can be ambiguous. **(Matter Arising 1)**
- 2.6 Furthermore, there appears to be a lack of ownership in relation to the plans. We note that the communication sent to ILGs that accompanied action plans did not explicitly set out the related responsibilities of the ILG. **(Matter Arising 1)**

Conclusion:

- 2.7 Overall, the Welsh Language team has put in place a framework to help achieve the Standards, which has been recorded in detailed action plans. However more work is needed to ensure that the ILGs clearly understand and meet their responsibilities as the Health Board moves forward to meet the Standards. We have provided reasonable assurance against this objective.

Objective 2: To provide assurance on the process for determining the resource requirements to deliver the action plans.

- 2.8 Previously the Welsh Language Manager has identified the resources required within the Health Board, and specifically the Welsh Language team, to implement the Standards. Business cases have been developed for additional team members to allow staff more time dedicated to compliance work, but these have not progressed to Management Board.
- 2.9 In comparison to other health boards, there are fewer staff within the Welsh Language team. **(Matter Arising 2)**

Conclusion:

2.10 There remains a risk that current resources will not be able to meet the demands being placed on the team, both in terms of translation services and achieving compliance with the Standards. We have provided limited assurance for this objective.

Objective 3: To provide assurance on the processes in place for monitoring and reporting on compliance with the Standards.

2.11 The Welsh Language Manager records the progress that is being made against the implementation of each of the Standards. This is available for all staff to access via the Welsh Language team's intranet pages.

2.12 In response to the compliance notice received by the Health Board, in February 2019 a Working Group was set up. Before the pandemic, while the group was attended by a broad range of representatives from across the Health Board, including the Director of Workforce and Organisational Development, it was unclear if there was representation from all required departments, many were not attending on a regular basis. **(Matter Arising 3)**

2.13 As a result of the pandemic, in February 2020 the meetings stopped, and have not restarted. The terms of reference for the group now need to be reviewed to ensure that the group's remit is clear and reflects the Health Board's revised operating model. **(Matter Arising 3)**

2.14 The 2020/21 Welsh Language Annual report was presented at the July 2021 People and Culture Committee meeting and provided readers with examples of the good practice work undertaken by the Welsh Language Team over the last year, for example, the introduction of ward audits undertaken remotely. However, the role of the annual report is not to provide an update on the overall position the Health Board is in against the Standards, and we have not seen any other monitoring reports being presented to this committee or the Board over the last year. **(Matter Arising 4)**

Conclusion:

2.15 Whilst we have seen the Welsh Language Manager monitoring compliance against the Standards and updates being provided to the Assistant Director of Employee Experience, we have not seen evidence of review and monitoring against the action plans and implementation of the Standards at a Health Board level. We have provided limited assurance for this objective.

Objective 4: To provide assurance that staff are made aware of the requirements of the regulations.

2.16 The Welsh Language team has undertaken a lot of work to promote their work and provide information to staff on the requirements set out in Standards. The team has a series of dedicated pages on the Health Board's intranet site with links to various sources of information, advice, and services that are available while helping to promote and encourage the use of the Welsh language within the workplace.

2.17 The distribution of the four action plans to the relevant departments and areas in the Health Board has also aided in ensuring staff are made aware of the requirement, though as stated in objective one, this message could have been strengthened when the action plans were issued to the ILGs.

2.18 The Health Board's Welsh Language Policy is not available on the team's dedicated pages. We also note that elsewhere on the intranet historic information about the Welsh Language Scheme remains. **(Matter Arising 5)**

Conclusion:

2.19 Considerable work has been undertaken to ensure staff are aware of the requirements of the regulations and access to further information and resources is readily available via the Welsh Language team's intranet pages. We have provided substantial assurance for this objective.

Objective 5: To provide assurance that risk relating to the Standards are appropriately assessed, recorded and monitored on risk registers.

2.20 A risk in relation to non-compliance with Welsh Language Standards is captured on the organisational risk register and we have seen evidence of the risk register being monitored at the People and Culture Committee.

2.21 A number of controls have been recorded on the register to give assurance around the work being undertaken to help mitigate this risk. However, our review has highlighted that some of the controls listed reflect a previous position. For example, the set up a Welsh Language Standards Working Group is cited as one control. Whilst a group was set up and did previously meet on a regular basis, as reported in objective three, the group has not met since February 2020. **(Matter Arising 6)**

2.22 The ILG risk registers do not capture localised risks that may exist due to non-compliance with the Standards, although one ILG is considering this risk following a recent review of their register. **(Matter Arising 6)**

Conclusion:

2.23 Whilst the Health Board has captured a risk in relation to compliance with the Welsh Language Standards and set out controls and actions, we are concerned that some of the recorded controls are no longer in place. We have provided reasonable assurance for this objective.

Appendix A: Management Action Plan

Matter Arising 1: Taking action plans forward (Operation)	Impact
<p>Tailored action plans relating to 2020/21 were created by the Welsh Language Manager for four key areas namely: Communications; Workforce & OD; Corporate; and ILGs. However, there appears to be a lack of clear ownership or acknowledgment that responsibility for implementing actions, to help achieve compliance with the Standards, rests with departments and ILGs, and not the Welsh Language Team.</p> <p>We understand that when the action plans were distributed to the ILGs along with background information about the Standards, an offer to discuss the matter was included, but was not taken up. The Welsh Language Manager has met with the Heads of Workforce in each ILG to explain the plans, but more work is needed to create a sense of ownership within the ILG.</p> <p>We note that the email communication to the ILGs did not explicitly set out expectations for overseeing and implementing the action plans, or the requirement for the ILG to provide regular progress updates to the Welsh Language Team. As such, there has been no regular ILG progress reporting on the action plans.</p> <p>In addition, the four action plans identify the lead officer, who had responsibility for implementing actions, by job title, for example 'ward managers' or 'practice manager'. As such, there is no clear accountability for implementing the Standards. When updating the action plans to reflect the 2021/22 position a date or version control should be recorded, to avoid multiple versions.</p>	<p>Staff unaware of their responsibilities in relation to implementing the Standards in their area.</p> <p>Financial penalties and reputational damage if the Health Board is unable to comply with the regulations, within the timescales agreed with the Welsh Language Commissioner.</p>
Recommendations	Priority
<p>1.1) A more robust process for ensuring action plan recipients are aware of their responsibilities in relation to implementing the actions allocated to them and providing timely updates on progress to the Welsh Language team should be implemented.</p>	<p style="text-align: center;">Medium</p>

1.2) The Welsh Language Manager will ensure that action plans are clearly dated and version controlled, to allow progress to be mapped, monitored and reported on.	Dec 2021	Eleri Jenkins – Welsh Language Manager
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Matter Arising 2: Staff resources (Operation)	Impact
<p>In recent months the structure of the Welsh Language team has been revised with the team no longer forming part of the Equality Team. As such, the team no longer have a shared staff resource with the Equality Team. The team now consists of 3.8 FTEs, of which 2.8 FTEs are dedicated to translation work, and 1 FTE is available to oversee the work the Health Board needs to carry out to achieve compliance with the Standards. Furthermore, we understand that there are no dedicated resources within ILGs or key departments for implementing the Standards that are relevant to their areas of work.</p> <p>Management has compared the staffing numbers within the team to the resources available at other health boards and identified that the numbers are low. We understand that business cases have been developed for additional staff to undertake compliance work, however these have not progressed to Management Board.</p>	<p>Financial penalties and reputational damage if the Health Board is unable to comply with the regulations, within the timescales agreed with the Welsh Language Commissioner.</p>
Recommendations	Priority
<p>2.1) Following the recent revision to the Welsh Language Team structure, a revised business case should be developed setting out the anticipated resources required by the team that would support the Health Board to implement the actions set out in the Welsh Language Commissioners compliance notice. The business case should be considered at the relevant level within the Health Board.</p>	<p style="text-align: center;">High</p>
<p>2.2) Should the Health Board consider the current level of resource to be appropriate, the Health Board’s risk register should reflect that the resources available to its Welsh Language Team could impact on its ability to meet the Standards, and the potential implications of this including the financial penalties that can be imposed.</p>	<p style="text-align: center;">Medium</p>

Agreed Management Action	Target Date	Responsible Officer
<p>2.1) A business case will be developed by the Welsh Language Manager, setting out the additional resources required within the Welsh Language Team to enable the Health Board to implement the actions set out in the Welsh Language Commissioners compliance notice, in a timely manner.</p> <p>The business case will be incorporated into the IMTP for 2022/2023, which is the process used by the Health Board to consider the justification of funding of new posts. This process will commence in October 2021.</p>	Oct 2021	Eleri Jenkins – Welsh Language Manager
<p>2.2) A new risk will be added to the risk register, to reflect the impact that the current level of staff resources within the team has on the Health Board’s ability to meet the Welsh Language Standards, and the potential implications of this, including the financial penalties that can be imposed.</p>	Oct 2021	<p>Eleri Jenkins - Welsh Language Manager</p> <p>Claire Nicholas – Head of Policy, Compliance and Agenda for Change</p>

Matter Arising 3: Operation of Welsh Language Standards Working Group (Operation)	Impact
<p>The Terms of Reference (ToR) for the Welsh Language Standards Working Group state that its focus is to lead and drive the Health Board’s approach to the delivery of the Standards. It sets out the different departments and hospital sites that should be represented on the group, but does not specify individuals or specific posts, and relies on the departments sending an appropriate representative. In contrast the minutes from the group’s meetings give limited information on the attendees so it has not possible to see if all departments are represented.</p> <p>The group met seven times between February 2019 and February 2020 before stopping due to the pandemic. Attendance at the group was not consistent, with 46 different people attending the seven meetings. Of these:</p> <ul style="list-style-type: none"> • 16 only attended one meeting. • 19 attended either two or three meetings. <p>Meaning that 76% of attendees attended half or less of the meetings held.</p> <p>The ToRs also state that formal updates are to be provided to the, now discontinued, Equality and Welsh Language Forum.</p>	<p>Actions not taking place due to lack of ownership and monitoring at a local level.</p> <p>Those attending the working group are individuals with an interest in the Welsh Language as opposed to those who can influence and implement change in their department.</p> <p>Financial penalties and reputational damage if the Health Board is unable to comply with the regulations, within the timescales agreed with the Welsh Language Commissioner.</p>
Recommendations	Priority
<p>3.1) A review of the Welsh Language Standards Working Group and its terms of reference should be undertaken to ensure:</p> <ul style="list-style-type: none"> • The ToR are up to date and reflect the remit of the group. • Specific posts or job titles are included within ToR, as opposed to listing departments. • The membership is appropriate and includes those who can influence and implement change within their area. • An identified reporting structure is put in place for the working group. 	<p>High</p>

Agreed Management Action	Target Date	Responsible Officer
<p>3.1) The ToR will be reviewed to ensure it:</p> <ul style="list-style-type: none">• Reflects the remit of the Welsh Language Working Group.• Identifies the nominated senior ILG representative members by their specific job titles and their deputy who would attend in their absence. To ensure appropriate membership, the Welsh Language Manager will engage with the ILG Senior Management Teams to ensure they currently operate at an appropriate level, which enables them to influence and implement change• Clearly sets out the reporting arrangements for the working group, which are to the People and Culture Committee, which is a subcommittee of the Board.	Oct 2021	Eleri Jenkins - Welsh Language Manager

Matter Arising 4: Reporting of compliance monitoring (Operation)	Impact
<p>The Welsh Language Team maintain a monitoring spreadsheet of compliance against the Standards that can be accessed by all staff via the Team's intranet pages. However, it is unclear where regular reporting of the Health Board's overall progress against the compliance notice is taking place.</p> <p>Welsh Language Standards Working Group – This was the main group for driving and leading the Health Board's approach to delivery of the Standards. It stopped meeting after February 2020 due to the pandemic and has not restarted.</p> <p>ILGs and key departments have responsibility for implementing the Standards' action plans within their area. However, in the absence of the working group, and the lack of direct feedback by ILGs and departments to the Welsh Language Manager, it is unclear what monitoring of progress has taken place.</p> <p>Ward audits were paused during the pandemic, but an online approach is being piloted in one ILG. However, in the absence of the Welsh Language Standards Working Group there does not appear to be a clear route to sharing the outcomes and good practice more widely.</p> <p>Equality and Welsh Language Forum – was previously a sub-committee of the Quality, Safety and Risk Committee and the Welsh Language Standards Working Group formally reported to the forum. While this forum continued in 2019, it no longer meets and its remit is now included within the People and Culture Committee.</p> <p>People and Culture Committee – This committee is responsible for ensuring compliance with the Welsh Language Standards on behalf of the Board.</p> <p>While the 2020/21 Welsh Language Annual report was presented to members, the report focuses on good practice and achievements. As such, the report is not designed to give the reader a sense of compliance against the Standards, the progress that has been made since the original compliance notice, or how compliance will be achieved.</p>	<p>Lack of progress against the Standards due to lack of monitoring and challenge.</p> <p>Financial penalties and reputational damage if the Health Board is unable to comply with the regulations, within the timescales agreed with the Welsh Language Commissioner.</p>

We have seen a draft report prepared by the Welsh Language Manager providing an update on compliance with the Standards. While this report was due to taken to the People and Culture Committee in early 2021, it has yet to be presented. We have not seen any other reports to Board.

Furthermore, due to structural changes within the Workforce and OD directorate, previous one to one meetings between the Welsh Language Manager and Director of Workforce and OD have ceased.

Recommendations		Priority
<p>4.1) Management should review and enhance the reporting and monitoring structures which are currently in place and implement a robust system which provides assurance both to senior management but also provides feedback to the departments and ILGS responsible for implementing Standards.</p> <p>In order to implement this management should consider:</p> <ul style="list-style-type: none"> • Setting up local Welsh Language Standards working groups within the departments and ILGs which are attended by the key leads from those areas and the Welsh Language Manager, thus allowing localised progress to be given on the status of the action plans and relevant support. • These groups could feed into an overall Welsh Language Group, whose membership should consist of relevant staff from Workforce & Organisational Development along with other areas across the Health Board along with representatives from the local working groups and the Welsh Language Manager. Findings and best practice from ward audits should be shared at this group. • Regular updates against the Standards should be provided to Board, via the People and Culture Committee who are responsible for this monitoring compliance. 	<p>High</p>	
Agreed Management Action	Target Date	Responsible Officer
<p>4.1) The Welsh Language Manager will engage with the ILG SMTs, to determine the feasibility and benefits of establishing local ILG Welsh Language Working</p>	<p>Oct 2021</p>	<p>Eleri Jenkins -Welsh Language Manager</p>

<p>Groups and how these would be managed and supported by the Welsh Language Manager.</p> <p>Reporting and monitoring of progress will be strengthened by the requirement for regular compliance reporting, from the nominated Senior ILG leads to the Welsh Language Working Group. The reporting will be further enhanced by having a standard agenda item of “sharing examples of good practice” to assist achievement of compliance in other areas. This information will be provided to the nominated senior ILG lead by the network of ward Welsh Language Champions.</p> <p>The People and Culture Committee when developing its cycle of business for 2022 will incorporate Welsh Language Standards Compliance updates, to be presented and report twice yearly, to provide assurance to the Board.</p>	<p>Oct 2021</p>	<p>Karen Wright -Asst Director of Workforce</p> <p>Identified ILG Leads</p> <p>Identified ILG Leads</p> <p>Eleri Jenkins -Welsh Language Manager</p>
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Matter Arising 5: Welsh Language Policy (Operation)		Impact
<p>While the Health Board’s Welsh Language Policy is within Workforce & OD policies, it is not available on the Welsh Language pages of the intranet.</p> <p>We also note that the Welsh Language Scheme is listed under Corporate policies despite being superseded by the Welsh Language Standards.</p>		<p>Patients that request communication in the Welsh language are treated inequitably.</p>
Recommendations		Priority
<p>5.1) Ensure that all aspects of the intranet that relate to Welsh Language have up to date and accurate information.</p>		<p>Low</p>
Agreed Management Action	Target Date	Responsible Officer
<p>5.1) Action has been taken and the Health Board’s Welsh Language Policy is now also available on the Welsh Language pages of the intranet. The reference to the Welsh Language Scheme has now been removed and replaced to read the Welsh Language Standards.</p>	<p>Completed</p>	<p>Eleri Jenkins - Welsh Language Manager</p>






Matter Arising 6: Risk Register (Operation)	Impact
<p>A risk and related controls in relation to the Health Board achieving compliance with the Welsh Language Standards is recorded on the organisational risk register and allocated to the People and Culture Committee for monitoring. We note that some of the documented controls are no longer in place. These are:</p> <ul style="list-style-type: none"> • Regular reports to Board to raise awareness – we have been unable to obtain evidence of regular reports to Board since 2019/20. • Working Group set up to support managers – the group has not met since February 2020. • Action plans have been issued – whilst we agree this has taken place, there is no regular feedback or progress updates provided to the Welsh Language Manager by the ILGs or other departments where action plans were issued. <p><u>Local Risk Registers</u></p> <p>The ILG risk registers do not contain risks in relation to compliance with the Welsh Language Standards. As such, it appears that compliance with the Standards is not seen as a local responsibility. We identified during our fieldwork that one ILG has identified this gap and will be undertaken further work to address this.</p>	<p>Those required to implement aspects of the standards are not aware of risks of non-compliance including patients that request communication in the Welsh language are treated inequitably.</p>
Recommendations	Priority
<p>6.1) The importance of compliance with the Welsh Language Standards should be reiterated to all staff, and the implications of non-compliance should be considered for inclusion on departmental and ILG risk registers and subsequent monitoring.</p>	<p>Medium</p>
<p>6.2) The risk register should be reviewed to ensure the controls listed as being in place and the action marked as completed are an accurate reflection of the findings made during the audit review.</p>	<p>Medium</p>

Agreed Management Action	Target Date	Responsible Officer
6.1) The Welsh Language Manager will develop regular communications to remind all staff of their responsibilities and the importance and benefits of complying with the Welsh Language Standards. These communications will be distributed to staff via a range of communications media, including social media.	Jan 2022	Eleri Jenkins - Welsh Language Manager Identified ILG Leads
6.2) The nominated senior ILG leads on the Welsh Language Working Group should discuss with department managers, the inclusion of non-compliance with the Standards on their departmental registers, to assist with the monitoring of progress and completion of outstanding actions.	Oct 2021	Eleri Jenkins – Welsh Language Manager
6.3) The Welsh Language Manager will review the actions on the current Workforce and OD and Health Board Risk Registers to ensure that they are up to date and include the risks identified in this audit report.		Claire Nicholas – Head of Policy, Compliance and Agenda for Change
6.4) The nominated ILG senior members of the Welsh Language Working Group will have responsibility for adding relevant and appropriate non-compliance issue to the ILG risk registers, which are monitored by the respective SMTs.		

Appendix B: Assurance opinion and action plan risk rating

Audit Assurance Ratings

We define the following levels of assurance that governance, risk management and internal control within the area under review are suitable designed and applied effectively:

	Substantial assurance	Few matters require attention and are compliance or advisory in nature. Low impact on residual risk exposure.
	Reasonable assurance	Some matters require management attention in control design or compliance. Low to moderate impact on residual risk exposure until resolved.
	Limited assurance	More significant matters require management attention. Moderate impact on residual risk exposure until resolved.
	No assurance	Action is required to address the whole control framework in this area. High impact on residual risk exposure until resolved.
	Assurance not applicable	Given to reviews and support provided to management which form part of the internal audit plan, to which the assurance definitions are not appropriate. These reviews are still relevant to the evidence base upon which the overall opinion is formed.

Prioritisation of Recommendations

We categorise our recommendations according to their level of priority as follows:

Priority level	Explanation	Management action
High	Poor system design OR widespread non-compliance. Significant risk to achievement of a system objective OR evidence present of material loss, error or misstatement.	Immediate*
Medium	Minor weakness in system design OR limited non-compliance. Some risk to achievement of a system objective.	Within one month*
Low	Potential to enhance system design to improve efficiency or effectiveness of controls. Generally issues of good practice for management consideration.	Within three months*

* Unless a more appropriate timescale is identified/agreed at the assignment.



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