

Workforce Partnership Council Paper WPC(16) 32 July WPC Minute and Actions Update

Meeting of the Workforce Partnership Council (WPC) Thursday 14 July 2016 Cathays Park, Cardiff Meeting Notes

1 Welcome and Opening Remarks

- 1.1 The First Minister welcomed everyone to the first meeting of the Workforce Partnership Council (WPC) of the new Assembly term. Apologies and substitutes are recorded at the end of this meeting note.
- 1.2 The First Minister began by outlining some of the potential economic effects on Wales of leaving the European Union and emphasised his determination to hold the UK Government to its funding commitments prior to the decision to leave. He explained that whilst the result of the referendum had created significant financial uncertainties, the Welsh Government would announce its budget plans by the autumn. The First Minister referenced the legislative programme announced last month which demonstrated the Welsh Government's continued commitment to improving public services and also included a Bill to repeal aspects of the UK Government's Trade Union Act.

2 UK Trade Union Act 2016

- 2.1 The Cabinet Secretary for Finance and Local Government outlined the early opportunity he had taken at the Wales TUC Conference in May to emphasise the Welsh Government's commitment to repealing those provisions of the Trade Union Act 2016 considered to be within the National Assembly's legislative competence. He confirmed several pieces of legislation will be introduced during the first year of the new term and expected to bring forward a trade union bill shortly after the introduction of the two tax bills for which he also has responsibility. He will keep the WPC informed of progress via its Joint Secretaries.
- 2.2 Mike Payne emphasised the potential effects of the Wales Bill on repealing aspects of the Trade Union Act and criticised the UK Government's use of agency workers to cover shortfalls in staffing numbers during strike action. The Cabinet Secretary confirmed his awareness of the proposal within the Wales Bill to reserve powers in relation to Employment and Industrial Relations and its potential to remove the Welsh Government's competence to counter future legislation. He explained Welsh Government is currently seeking to amend the Wales Bill to provide an exception for devolved public services.
- 2.3 The Cabinet Secretary explained the UK Department for Business, Innovation and Skills consulted on rescinding regulations blocking the recruitment of agency staff to cover striking workers. The UK Government has yet to publish its response but the Cabinet Secretary has asked

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officials to explore options to retain the current situation in Wales should these regulations be rescinded by the UK Government.

- 2.4 Margaret Thomas supported the approach outlined by the Welsh Government and asked if members of the WPC could be kept informed. The First Minister agreed to this. Steve Thomas asked if there is a specific date set for when the Welsh Government's budget will be announced. The Cabinet Secretary for Finance and Local Government confirmed the intention to have a finalised budget within the current calendar year but that it is unlikely to be voted on until next year.

Action: The Cabinet Secretary for Finance and Local Government to keep the Joint Secretaries of the WPC informed of progress on the introduction of a Bill to repeal aspects of the UK Government's Trade Union Act 2016 and developments in relation to the repeal of regulation 7 (use of Agency Workers).

3 Workforce Planning and Mobility

- 3.1 The Minister for Skills and Science advised she has been asked to continue to lead on this work and intended to convene a meeting of the Workforce Planning and Mobility Sub group in advance of the next meeting of the WPC.
- 3.2 The Minister outlined the extensive engagement around workforce planning and mobility both before and following the March WPC meeting. She added that the People Exchange Cymru (PEC) pilot went live on 1 May and a full evaluation of the pilot will be considered by the sub-group before being brought to the next WPC for consideration. She asked the meeting how the PEC pilot was being received. Alison Ward confirmed there had been no issues raised with her and Julie Cook looked forward to considering the outcome of the pilot in advance of the next WPC. The Minister reminded the meeting of the importance of completing the PEC evaluation by 30 September and encouraged the continued use of PEC which will not be turned off at the end of the three month trial.
- 3.3 Turning to the workforce mobility scenarios, the Minister confirmed detailed legal advice has been commissioned on the development of the two agreed options. This will be considered by the Workforce Planning and Mobility sub-group and recommendations brought to the next WPC.

Action: WPC members to encourage the organisations they represent to complete the evaluation by 30 September and to continue to use PEC as a means of promoting job opportunities across devolved public services.

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4 Public Services Staff Commission (PSSC)

- 4.1 Gill Lewis provided an overview of the PSSC's recent activities. She thanked colleagues for the enthusiasm they had displayed in engaging with the work of the PSSC. She advised that the PSSC has now met with all the bodies in scope except the Fire and Rescue Authorities and this was in hand. She added that useful meetings had taken place with the Local Government trade union group and hoped the Staff Commission could now engage with the trade union groups from the other three sectors. She advised that the PSSC would review its work programme given the current reflection on local government reform and the expected new Programme for Government. She confirmed extensive work had taken place on the transparency of senior pay and remuneration arrangements which would be shared in the form of an interim report with members in the autumn, before finalising the work before the end of the year. She added that the PSSC would like to identify agreed priority work areas with the WPC to support the public service reform agenda.
- 4.2 Alison Phillips provided a detailed update on the current work programme, which included a specific update on the PSSC's work in developing guidance on the use of Non-Guaranteed Hours Arrangements (NGHAs). Alison advised that PSSC had received legal advice on the draft NGH document and a few suggested amendments would need to be considered via the joint secretaries, but in her view these did not alter the spirit of the document.
- 4.3 The First Minister thanked Alison and Gill for the update. He suggested the comments should be taken in three phases – the general update, the NGH documents and then any other PSSC issues.
- 4.4 The Cabinet Secretary for Finance and Local Government outlined that he was considering, with local government and others, new arrangements for local government following the Assembly elections. The original work the PSSC would have expected to take forward to support local government reform would need to be reviewed in the light of these as they developed. Further consideration would need to be given to how the original requirement for the PSSC regarding local government reform had now shifted and on what key issues the PSSC should now focus on. He then asked members for their views on how the PSSC's guidance on the use of NGHCs should be published. He suggested it could either be issued as statutory guidance or alternatively the PSSC could issue and the Welsh Government endorse as best practice for organisations to follow. Alternatively, the Welsh Government could utilise its powers to issue it as statutory guidance.
- 4.5 Margaret Thomas stated the level of engagement between the trade union sides of WPC sub-groups and the PSSC needed to improve and it was in their own interest to make this happen. She went on to suggest that the recommendation in paragraph 15 of the cover paper could be

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strengthened to encompass all organisations contracted to provide public services.

- 4.6 Alison Ward suggested the guidance be issued as guidance endorsed by the Welsh Government rather than put on a statutory footing but would take soundings and report back. Margaret Thomas felt the guidance should be strengthened by being made statutory and was content to consider in detail. She raised concerns that an amended version had been provided the day before the meeting and that the trade unions had not had sufficient time to consider the changes. Shavanah Taj also felt the guidance should be statutory, fearing employers would not comply otherwise.
- 4.7 Alison Ward emphasised that this work had always been intended as a set of principles rather than a binding legal document. Steve Thomas suggested he could submit the guidance to the HR Directors network but suggested that asking whether the guidance should be statutory or not would need to be considered as a new consultation. Alison Phillips confirmed that she would discuss the proposed amendments to the guidance document through the Joint Secretaries. The Cabinet Secretary for Finance and Local Government confirmed he would consider how best to utilise the guidance document once he had received members' views.
- 4.8 The First Minister asked members to consider the final draft guidance and provide final comments to the PSSC within two weeks of the meeting. He also asked the WPC to consider whether it should be put on a statutory footing and to provide comments to the WPC secretariat by the end of August. He confirmed the Cabinet Secretary for Finance and Local Government would make the final decision.
- 4.9 The Cabinet Secretary for Finance and Local Government advised the WPC that he had received a letter from Martin Mansfield, General Secretary of the Wales TUC, regarding the Wales TUC's views on the future of social partnership and concerns about the role of the PSSC in relation to the WPC. He explained that if members had not seen the letter he would seek Martin's agreement to circulate to the members. Margaret Thomas confirmed the letter had emerged following a meeting of the Wales TUC which questioned the role of the PSSC following changes to the local government reform agenda. She confirmed the Trade Unions position that the WPC should be the primary body for discussing workforce matters with the Welsh Government. She added that there was supposed to be a review of the PSSC in March 2017 but asked whether this might be brought forward now. Alison Ward confirmed she had not seen the letter and was not in a position to discuss it from an employer perspective.
- 4.10 The First Minister emphasised that local government reform was still a key issue for the Welsh Government and that the status quo was not an

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option. Steve Thomas agreed that in his view there would be some reform and a need for the associated workforce issues to be tackled.

4.11 The First Minister confirmed that the letter should be circulated so that everybody could consider it and provide feedback for the Cabinet Secretary for Finance and Local Government to consider alongside the reform agenda. This could then be brought back to the next WPC meeting for a substantive discussion. Mike Payne welcomed this approach and supported the view that it needed to be discussed at the next WPC.

Action: PSSC to produce an interim report on their work on senior pay and remuneration arrangements in Wales in the autumn in advance of a final report in December.

Action: WPC members to consider the final draft of NGHC guidance and provide final comments to the PSSC within two weeks of the meeting.

Action: WPC members to consider whether the PSSC's guidance document on the use of Non Guaranteed Hours Contracts (NGHCs) should be placed on a statutory footing and to provide comments to the WPC Secretariat by the end of August.

Action: Alison Phillips to consider how to respond to the comments on paragraph 15 of the cover paper to the Commission's draft NGHCs guidance document.

Action: WPC secretariat to circulate the letter from the Wales TUC subject to their agreement and to ensure this is included as an agenda item at the next meeting of the WPC in November.

5 Code of Practice on Ethical Employment in Supply Chain

5.1 The Cabinet Secretary for Finance and Local Government thanked the Joint Secretaries for their help in seeking input from the WPC and its Sector Groups in the development of this Code of Practice. He emphasised the Code sent a clear message to all public sector employers, and the third sector, that they needed to progressively move to adopt these approaches. The destination was clear, for some organisations it would be more of a journey than others. He also introduced Sue Hurrell from Value Wales as the lead official within the Welsh Government for this work.

5.2 Margaret Thomas emphasised that the Code should apply to all organisations in receipt of government funding. Julie Cook highlighted the different strands of on-going work around procurement and felt some overlapped whilst others had significantly different timescales. She asked if this work could be more effectively co-ordinated. Alison Ward supported this view and also emphasised the cost to employers of implementing the

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Code. She added that this was a particular concern in terms of private sector contractors passing on their additional costs to the public sector. The Cabinet Secretary acknowledged the range of work taking place and confirmed he would ask his officials to look at how this activity could be better co-ordinated.

5.3 The First Minister added that the decision to leave the EU will change the law that applies to procurement and open opportunities for different approaches. Officials are already looking at the implications of this.

Action: Any additional feedback on the Code of Practice to be provided via the Joint Secretaries by the end of August.

Action: Welsh Government officials to consider how there can be better co-ordination on procurement policies generally.

6 Research into the Impact of Terms and Conditions of Employment in Social Care

6.1 The First Minister introduced Jonathan Isaac as the lead official for this item. Jonathan explained the research commissioned by the Welsh Government into the home care sector had a particular focus on the terms and conditions of Domiciliary Care Workers. The research suggested a clear link between terms and conditions of employment and the quality of care provided. On this basis the Welsh Government put forward a consultation to improve the recruitment and retention of Domiciliary Care Workers which concluded in April with over 100 responses from a range of stakeholders. In general terms there was support for the consultation proposals and he provided three examples. These were to provide domiciliary carers the option of having zero hour contracts, for local authorities to be clearer in their commissioning policies on travel time and for local authorities through the commissioning process to ensure sufficient time for carers to travel to destinations and to spend with clients.

6.2 Jonathan went on to explain the Welsh Government was considering the results carefully, many of which are qualitative in nature and take time to process. Once considered a report will be produced and he will continue to liaise with PSSC and Value Wales in the development of this given the work undertaken by them respectively around guidance on the use of non-guaranteed hours and ethical employment in the supply chain. The outcome of the consultation will principally be used to inform the development of service regulations and standards under the new Regulation and Inspection of Social Care (Wales) Act to help strengthen the sector.

6.3 Mike Payne emphasised the importance of carefully considering this work if the quality of care is to be maintained. Margaret Thomas confirmed she was not surprised at the results but was disappointed that not one local authority had signed up to UNISON's ethical charter as yet.

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6.4 The Minister for Skills and Science confirmed Qualifications Wales were also looking into the development of professional qualifications.

Action: Welsh Government officials to liaise with the PSSC and Value Wales in producing a report on the consultation and devising the way forward on improving the quality of domiciliary care in Wales.

7 Living Wage

7.1 The First Minister introduced Judith Cole to the meeting and explained she would provide an oral update from the Living Wage Technical Group which is exploring the costs of applying the Living Wage to local government.

7.2 Judith explained the Group had received data from one sample authority and based on their response had agreed to further restrict the data requested so that it no longer seeks to separate out gender and age. This reduces the burden on local authorities and recognises that single status agreements are in place in all local authorities and that as a result there should not be any pay differentials between individuals based on age or gender. A formal request has been issued to all 22 local authorities for costs data with the assistance of the WLGA, and although voluntary, all have indicated they will respond. An initial estimate is that it will cost £30 million to implement the Living Wage in local government but this is based upon one local authority at present and should be treated with caution. As indicated at the last WPC, this is calculated on the basis of adoption by a supplement rather than amending the pay structures in place. The national pay negotiations agreed between the unions and employers were recently concluded for a 2 year deal in order to allow further work on a joint review of the overall pay spine.

7.3 The next stage is to consider the data received from other local authorities and consider what modelling issues arise. Mike Payne outlined the problems there had been in obtaining the data but recognised the support of the WLGA in assisting to gather this. Steve Thomas asked if this exercise was taking place alongside similar work being carried out within the Health Service. Judith Cole confirmed she was in dialogue with Health colleagues but that they are separate exercises.

8 Revised Code of Practice on Workforce Matters, the Two Tier Code – Annual Report

8.1 The Cabinet Secretary for Finance and Local Government explained that the second annual monitoring exercise into the use of the Code of Practice on Workforce Matters had concluded with a 98% response rate. He reiterated its importance in providing a valuable source of information on

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the picture of devolved public services across Wales and confirmed the continuation of the annual monitoring exercise would help reinforce both awareness and importance of the Code.

8.2 The Cabinet Secretary advised he would be writing to those organisations that either failed to provide a response or applied the Code incorrectly seeking explanations as necessary and also assurances this would not happen again in the future. He added that he had asked officials to explore whether a broader programme of awareness raising is needed across public services in Wales.

8.3 Margaret Phelan confirmed that concerns over the appropriate application of the Code had been raised with her a number of times and was glad the Welsh Government were taking it seriously. She emphasised her view that both the HE and FE sectors should also follow the Code in any outsourcing activity they undertake. The Minister for Skills and Science confirmed she was looking at modifying all the contracts with FE and HE to ensure they follow the Code in any outsourcing activity.

Action: Those organisations that did not provide a response or applied the Code incorrectly to be written to, seeking an explanation as to why and assurances this would not happen again in the future.

Action: Welsh Government officials to consider whether a broader programme of awareness raising around the Code needs to be undertaken.

9 Revised “Community Asset Transfer in Wales: A best practice guide” (March 2016)

9.1 The Cabinet Secretary for Finance and Local Government confirmed the revised guidance on ‘Community Asset Transfers in Wales: a best practice guide’ was published in March. He confirmed the revised guidance had been strengthened to include specific reference to following the Two Tier Code in the transfer of assets and staff to other organisations. The Cabinet Secretary confirmed he was content to receive any comments on the revised guidance but would prefer more substantive issues to be routed through the Joint Secretaries. Margaret Thomas and Alison Ward confirmed they would comment once they had had more time to consider. The First Minister asked for comments by the end of August.

Action: WPC members to provide any comments on the revised guidance by the end of August via the Joint Secretaries.

10 UK Government Public Sector Exit Payments Cap

10.1 The Cabinet Secretary for Finance and Local Government stated the waiver powers for Welsh Ministers was a positive development and

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would give the Welsh Government appropriate controls over how the exit payment cap operates in Wales. He confirmed his view that the capping of exit payments is correct but that it should not adversely impact on low earners.

- 10.2 The UK Government is seeking further exit payment reforms and the Welsh Government will wait to see what proposals are submitted by the Treasury. Gareth Howells confirmed the effects of capping on low paid workers is a major concern for unions and also extended his thanks to the former Minister for Public Services, Leighton Andrews for all his work in this area.

11 Transparency in Senior Remuneration

- 11.1 The First Minister introduced James Owen as the lead official for this item. James Owen explained that the Public Accounts Committee (PAC) report on Senior Management Pay in the Welsh Public Sector made 23 recommendations to address inconsistencies around disclosure arrangements for senior management pay; all were accepted by the Welsh Government. This resulted in the publication in December 2015 of a common set of core principles and standards which the Welsh Government expects public bodies in Wales to uphold. He added that the PSSC are reviewing the impact of the standards and will report on this in the autumn.
- 11.2 Work is focusing on embedding transparency themes included in the standards in particular recommendation 23 which points towards the Welsh Government collating information on senior pay across devolved sectors. To answer this, the Welsh Government will create a single point on its website referencing the senior pay disclosures of devolved public bodies. In response to the remaining recommendations the Welsh Government will be seeking advice on developing guidance and training for public sector bodies in Wales. This will be reported to the WPC at a later meeting.
- 11.3 Margaret Phelan highlighted the need to ensure both the HE and FE sectors are considered under these standards. She emphasised the pay differences that exist between the most senior and junior staff within these sectors e.g. that a Vice Chancellor's salary is 484% higher than an average academics and 788% higher than a member of office and support staff.

Action: James Owen to report to a future meeting of the WPC on producing guidance and training in support of the remaining recommendations in the Public Accounts Committee report on Senior Management Pay in the Welsh Public Sector.

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12 Any other Business

12.1 The First Minister confirmed the notes of the previous meeting and asked if there were any issues with these or the sector reports. No issues were raised. Margaret Thomas expressed concern three oral items had been presented at this meeting by Welsh Government officials and that WPC members had therefore not been able to consider before hand. She asked that papers be provided permitting members to better consider the item in advance of meetings, rather than having a number of oral items. The First Minister accepted this and agreed purely oral items would only be submitted in the future under exceptional circumstances. He advised that the most current position on a specific issue may not always be available in advance but could be provided at the meeting itself to supplement a paper.

12.2 Shavanah Taj offered her thanks to the Welsh Government for its involvement and help in resolving the National Museum of Wales dispute.

Action: Welsh Government officials to ensure that papers are provided in support of agenda items unless exceptional reasons for not doing so.

WPC Meeting Actions: 14 July 2016

1. The Cabinet Secretary for Finance and Local Government to keep the Joint Secretaries of the WPC informed of progress on the introduction of a Bill to repeal aspects of the UK Government's Trade Union Act 2016 and developments in relation to the repeal of regulation 7 (use of Agency Workers).	Welsh Government	The Joint Secretaries were updated with developments on the repeal of regulation 7 ahead of the launch of an associated Welsh Government consultation.
2. WPC members to encourage the organisations they represent to complete the evaluation by 30 September and to continue to use PEC as a means of promoting job opportunities across devolved public services.	WPC members	Further work on the PEC evaluation to be raised under agenda item 9.
3. PSSC to produce an interim report on their work on senior pay and remuneration arrangements in Wales in the autumn in advance of a final report in December.	PSSC	This will be covered at agenda item 5.
4. WPC members to consider the final draft of NGHC guidance and provide final comments to the PSSC	WPC members	Considered by WPC membership.

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within two weeks of the meeting.		
5. WPC members to consider whether the PSSC's guidance document on the use of Non Guaranteed Hours Contracts (NGHCs) should be placed on a statutory footing and to provide comments to the WPC Secretariat by the end of August.	WPC members	This will be covered at agenda item 5.
6. Alison Phillips to consider how to respond to the comments on paragraph 15 of the cover paper to the Commission's draft NGHCs guidance document.	Alison Phillips (PSSC)	The guidance has now been issued with the endorsement of the Joint Secretaries.
7. WPC secretariat to circulate the letter from the Wales TUC subject to their agreement and to ensure this is included as an agenda item at the next meeting of the WPC in November.	Welsh Government	Letter circulated by WPC Secretariat.
8. Any additional feedback on the Code of Practice to be provided via the Joint Secretaries by the end of August.	Joint Secretaries (WPC)	Completed.
9. Welsh Government officials to consider how there can be better co-ordination on procurement policies generally.	Welsh Government	Ongoing. Value Wales officials are engaged in the Welsh Government's Workforce Intelligence Network to ensure coordination of development of the Code of Practice for Ethical Employment in Supply Chains with workforce related matters across Welsh Government.
10. Welsh Government officials to liaise with the PSSC and Value Wales in producing a report on the consultation and devising the way forward on improving the quality of domiciliary care in Wales.	Welsh Government	The proposals for improving the quality of domiciliary care in Wales have been thoroughly informed by the work of PSSC and Value Wales, ensuring a coherent approach to improving the employment conditions of workers.

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		Officials will continue to engage with PSSC and VW as we take this work forward.
11. Those organisations that did not provide a response or applied the Code incorrectly to be written to, seeking an explanation as to why and assurances this would not happen again in the future.	Welsh Government	The Cabinet Secretary has written to those organisations that did not apply the Code correctly and has received responses.
12. Welsh Government officials to consider whether a broader programme of awareness raising around the Code needs to be undertaken.	Welsh Government	On-going – Welsh Government officials are considering.
13. WPC members to provide any comments on the revised guidance by the end of August via the Joint Secretaries.	WPC members	The requested substantive response was received from the TUC on 12 October 2016. Officials are now giving due consideration to the various representations and analysing what changes can/should be made to the guide. Officials will be contacting the TUC representatives at the earliest opportunity to discuss this matter in further detail in the hope of reaching a mutually satisfactory resolution to all points raised. It is then anticipated that an updated draft of the Community Asset Transfer Best Practice Guide will then be sent to the Joint Secretaries for comment.
14. James Owen to report to a future meeting of the WPC on producing guidance and training in support of the remaining recommendations in the Public Accounts Committee	Welsh Government	James Owen to report back to the WPC in 2017.

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report on Senior Management Pay in the Welsh Public Sector.		
15. Welsh Government officials to ensure that papers are provided in support of agenda items unless exceptional reasons for not doing so.	Welsh Government	Completed.

List of Attendees - Workforce Partnership Council – 14 July 2016

First Minister of Wales – Rt. Hon. Carwyn Jones (Chair)
Cabinet Secretary for Finance and Local Government – Mark Drakeford
Minister for Skills and Science – Julie James

Trade Unions

Julie Cook, Wales TUC (Joint Secretary)
Margaret Thomas, Unison
Donna Hutton, Unison
Gareth Howells, Prospect
Shavanah Taj, PCS
Paddy McNaught, UNITE
Peter Hewin, BAOT
David Evans, NUT
Rex Phillips, NASUWT
Mike Payne, GMB
Margaret Phelan – UCU Cymru
Kevin Tucker – SCR
Cerith Griffiths, FBU
Peter Meredith-Smith, RCN

Employers

Alison Ward, Torfaen County Borough Council (Joint Secretary)
Steve Thomas, WLGA
Jonathan Lloyd, WLGA
Beverley Edgar, ABMU
Huw Jakeway, South Wales Fire and Rescue Services
Claire Roberts, Colegau Cymru

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David Michael, National Library of Wales
Sue Chambers, Aberystwyth University
James Owen, Welsh Government
Zenny Saunders, Welsh Government

PSSC (standing invitation)

Gill Lewis (Chair)
Alison Phillips (CEO)

Supporting Officials – Welsh Government

Piers Bisson
Paul Webb
Judith Cole (for item 7)
Jonathan Isaac (for item 6)
Richard Baker (for item 9)
Mark Pruce
Carl Eley
Dr Sue Hurrell (for item 5)
Jonathan Hopkins (for item 5)
Emma Bennett
Clare Lewis
Mark Lewis
Sarah Lilley (for item 7)

Observers

Robin Jones, PSSC

Apologies

Dominic MacAskill, Unison
Ceri Davies, Pembrokeshire County Council
Althea Phillips, GMB
Iestyn Davies – Colegau Cymru
CFO Simon Smith – North Wales Fire and Rescue Services
Joanne Oak – Care Council for Wales