

# **FTF Internal Audit Service**

## **Commissioned Services**

### **Report No. AN06/22**

**Issued To:** G Smith, Chief Officer  
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[Angus Integration Joint Board]  
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Draft Report Issued	
Management Responses Received	
Target Audit & Risk Committee Date	
<b>Final Report Issued</b>	<b>TBC</b>

## CONTEXT AND SCOPE

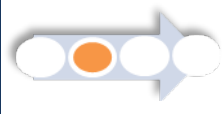
1. The HSCP is heavily reliant on services commissioned externally from the independent and third sectors for the provision of services, including homecare, residential and day care, to service users in the Older People, Mental Health and Learning Disabilities sectors. The IJB and its partners currently spend between £40 - £45 million on commissioned services; the reliance placed on the stability and sustainability of these service providers is hugely significant.
2. Commissioning of reliable, sustainable service provision which meets required quality standards is fundamental for the safe care and effective treatment of service users, and the on-going development and planning of services.
3. Effective management of the risks associated with reliance on commissioned services is vital. The failure of a major service provider would have serious implications for service users and could have major financial and reputational risks for the IJB and its partners.
4. The scope of this review is to evaluate and report on the management of specific risks associated with the sustainability of services commissioned by the HSCP from the independent and third sectors. The review will determine whether proper arrangements for identification and mitigation of these risks are in place, whether they have been updated to allow for the impact of Covid, whether these are being applied in practice, and whether contingency plans are in place should risk mitigation be unsuccessful.
5. Our audit identified the procedures in place to identify and manage the risks associated with the HSCP's reliance on external providers of commissioned services. The audit specifically considered the following objectives:
  - The HSCP has an agreed methodology for identifying risks of provider sustainability within commissioned services, which take into account the impact of Covid and likely future need when the new Strategic Commissioning plan is developed.
  - Adequate arrangements are in place to monitor and provide assurance on the identified risks associated with commissioned services, noting no part of the system operates in a risk-free environment.
  - Adequate controls are in place to mitigate the risks identified.
  - Adequate contingency plans are in place to ensure services can continue to be delivered in the event that risk mitigation is unsuccessful, and these plans are regularly reviewed and updated.

Public services need reliable, accurate and timely information with which to manage services, inform users and account for performance. Clinical and Care Managers make many, often complex, decisions about priorities and the use of resources. Clinical and Care Managers, Service planners, Service users and members of the public more widely, need accessible information to make informed decisions. Regulators and government departments need information to satisfy their responsibilities for making judgements about performance and governance.

***The assignment concluded on the system adequacy and control application and has an overall opinion based on the criteria listed under 'Definition of Assurance' in Section 4 below. The risk associated with each of the weaknesses identified is categorised using the criteria listed under 'Assessment of Risk' in Section 4.***

**AUDIT OPINION**

6. The Audit Opinion of the level of assurance is as follows:

Level of Assurance		System Adequacy	Controls
Limited Assurance		Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.	Controls are applied but with some significant lapses.

7. A description of all definitions of assurance and assessment of risks are given in Section 4 of this report.

**EXECUTIVE SUMMARY**

8. In summary the risk of Commissioned Service Provider Failure is being managed as per the IJB Risk Management Strategy. There is a risk owner, with 11 controls and corresponding actions allocated to named individuals in place for the risk. There are risk monitoring meetings every 2 months with updates from each control/action owner plus an overall update on the risk. The individuals allocated actions also have more frequent meetings and monitoring actions throughout the period between these meetings.
9. It was noted during the audit that part of the tender process is that a provider has to have a Business Continuity Plan, although these are not routinely reviewed prior to contracts being awarded. Also, Business Continuity Plans are not viewed as part of routine contract monitoring to ensure that they are kept up to date.
10. At the beginning of the pandemic providers were asked to submit their Business Continuity Plans as part of a larger questionnaire. Of the 73 providers, only 19 were marked as 'acceptable' with 34 non-returns. This was not followed up and no further action was taken. This represents a significant control weakness and the response was not proportionate to the significant risk and serious potential impact of this issue, or of a potential failure by suppliers to honour contract commitments.
11. We also found that although Managers in the AHSCP have BCPs for their own services and individual AHSCP facilities, these don't cover failure of Commissioned Services. There is therefore no Business Continuity Plan for the potential failure of Commissioned Services.
12. We welcome the wide range of action taken to help providers attract and retain staff. However, there is no monitoring of data showing the effectiveness of action taken or the current gap in controls.


## **ACTION**


13. The action plan at Section 2 of this report has been agreed with management to address the identified weaknesses. A follow-up of implementation of the agreed actions will be undertaken in accordance with the audit reporting protocol.


## **ACKNOWLEDGEMENT**

14. We would like to thank all members of staff for the help and co-operation received during the course of the audit.

**A Gaskin BSc. ACA**  
**Chief Internal Auditor**

Action Point Reference 1		
<b>Finding:</b>		
<p>Although it is a stipulation in tender documents that a Business Continuity Plan is in place, Procurement do not routinely check that this is the case prior to contracts being awarded, nor is there ongoing monitoring to ensure they are kept up to date.</p> <p>A questionnaire was sent to all 73 providers at the start of the pandemic, including a specific question regarding Business Continuity Plans. The responses were ranked as 13 red, 7 amber, 19 green and 34 blank. The decision was taken not to follow up this aspect which was not proportionate to the significant risk and potentially serious impact on the organisation posed by this issue, nor of the failure by suppliers to honour their contract.</p> <p>In our view, BCPs should be a key control and given the seriousness of the overall risk, any aspects of the contract specification which help to prevent provider failure should be prioritised in contract monitoring.</p>		
<b>Audit Recommendation:</b>		
<p>It is recommended that Procurement ensure that the Business Continuity Plan (BCP) for each provider is in place and is fit for purpose at the review of tender stage before the contract is awarded.</p> <p>The currency and quality of all providers' Business Continuity Plans should be reviewed as part of ongoing contract monitoring. This should be included as part of the agenda of contract monitoring meetings.</p> <p>BCPs should be specifically identified as a key control in the Commissioned Service provider Failure risk.</p>		
<b>Assessment of Risk:</b>		
Significant		<p>Weaknesses in design or implementation of key controls i.e. those which individually reduce the risk scores.</p> <p><b>Requires action to avoid exposure to significant risks to achieving the objectives for area under review.</b></p>
<b>Management Response/Action:</b>		
<b>Action by:</b>	<b>Date of expected completion:</b>	

Action Point Reference 2		
<b>Finding:</b>		
<p>We also found that although Managers in the AHSCP have BCPs for their own services and individual AHSCP facilities, these don't cover failure of Commissioned Services. There is therefore no Business Continuity Plan for the potential failure of Commissioned Services.</p>		
<b>Audit Recommendation:</b>		
<p>It is recommended that AHSCP produce a Business Continuity Plan which covers Commissioned Services and that this is reviewed and updated regularly.</p>		
<b>Assessment of Risk:</b>		
Significant		<p>Weaknesses in design or implementation of key controls i.e. those which individually reduce the risk scores.</p> <p><b>Requires action to avoid exposure to significant risks to achieving the objectives for area under review.</b></p>
<b>Management Response/Action:</b>		
<b>Action by:</b>	<b>Date of expected completion:</b>	

Action Point Reference 3	
<b>Finding:</b>	
<p>We welcome the wide range of action taken to help providers attract and retain staff. However, there is no monitoring of data showing the effectiveness of action taken or current gap in the controls.</p> <p>We also note that a previous update to the strategic risk in July 2020 suggested developing scenario planning for care provider failure. Although such a report using scenario planning was in the end not developed, and the context has now moved on, we welcome the idea.</p>	
<b>Audit Recommendation:</b>	
<p>To provide assurance on the effectiveness of the actions taken to support recruitment, relevant KPIs derived from workforce performance and other data should be monitored regularly at the Care Home and Care at Home operational groups in order to provide assurance on controls.</p> <p>This principle should be extended so that performance of the controls can be measured against agreed parameters which indicate the sustainability of a provider and provide early risk warnings.</p> <p>Data available should be monitored and reported regularly to provide clear information on how controls are performing.</p>	
<b>Assessment of Risk:</b>	
Significant	
<p>Weaknesses in design or implementation of key controls i.e. those which individually reduce the risk scores.</p> <p><b>Requires action to avoid exposure to significant risks to achieving the objectives for area under review.</b></p>	
<b>Management Response/Action:</b>	
<b>To be completed by Client</b>	
<b>Action by:</b>	<b>Date of expected completion:</b>
<b>Responsible person designation</b>	<b>Enter the date the action is to be completed by.</b>



Action Point Reference 4	
<b>Finding:</b>	
<p>The Prioritisation Oversight Group is not currently listed as a control on the Commissioned Service Providers strategic risk. As part of our discussions with management, reference was made to a large number of fora and working groups involved in commissioned service providers.</p>	
<b>Audit Recommendation:</b>	
<p>The purpose of each group and the role each group plays in controlling the overall strategic risk should be clearly identified and recorded to ensure that there is no omission or unnecessary duplication.</p> <p>The overall contribution of these groups and the Prioritisation Oversight Group in particular should be recorded as a controls as part of the next update to the risk.</p>	
<b>Assessment of Risk:</b>	
Significant	 <p>Weaknesses in design or implementation of key controls i.e. those which individually reduce the risk scores.</p> <p><b>Requires action to avoid exposure to significant risks to achieving the objectives for area under review.</b></p>
<b>Management Response/Action:</b>	
<p><b>The IJB will review the role of all groups linked to Commissioned Services and document the outcomes in the controls section of future CCPG risk update.</b></p>	
<b>Action by:</b>	<b>Date of expected completion:</b>
Head of Service (GB)	March 2023

## Section 3 Detailed Findings / Information

**Control 1 - The HSCP has an agreed methodology for identifying risks of provider sustainability within commissioned services, which take into account the impact of Covid and likely future need when the new Strategic Commissioning plan is developed.**

15. Risk SR11 is commissioned service provider failure. The risk owner is the Head of Community Health and Care Services (South). The risk is scored as a Priority 1 risk with major impact and very high likelihood with a risk score of 20. There are 11 controls with mitigating actions and owners for each action.

The risk includes reference to the Covid pandemic from 2020 onwards. 21/07/20 the update was *“Whilst controls remain strong, the Covid 19 pandemic has presented significant threats, to the residential care sector in particular. This may have increased the risk of a provider failure due to reputational damage and lower uptake of residential care home places at the time of writing (in contrast with an increase in care at home provision.) On the other hand, the national focus on care homes during the pandemic, and the stated commitment from the Scottish Government to improving the status and conditions for care home workers and residents may ultimately make the care home market more resilient. It is difficult at this stage to know how this will develop, but a report covering potential scenarios and their implications is being progressed and will be shared with CCPG [Clinical Care & Professional Governance Group] ...”*

Although such a report using scenario planning was in the end not developed for the CCPG, and the context has now moved on, we welcome the idea and reflect in paragraph 29 below on the use of data to monitor the sustainability of providers.

16. This risk was further updated in September and November 2021:
17. 13/09/21 – *“Effective care at home provision could be described currently as precarious but a shift in the labour position would quickly improve matters. It is difficult to predict the likely duration of the problem because of Covid impact. I have increased the risk score accordingly”*.
18. Extract from 03/11/21 – *“I have further increased the risk score to reflect the worsening position in care at home capacity..... Eighteen months of unparalleled growth in care at home appear now to have peaked and fallen back. Recruitment and retention are the main problems as providers seek to grow, and we are supporting providers with recruitment activity. This is a national problem, and the Scottish Government has announced funding to address challenges”*.
19. The risk updates also reflect the strategic context of the shift from Care Homes to Care at Home therefore demonstrating the link to expected future use.

**Control 2 - Adequate arrangements are in place to monitor and provide assurance on the identified risks associated with commissioned services, noting no part of the system operates in a risk-free environment.**

20. The risk in the AHSCP risk register for ‘Commissioned Service Provider Failure’ has been upgraded to a priority 1 in the risk register. Priority 1 is “Risk remains extreme even after all identified controls and treatments have been applied. There are significant risks, which may have a serious impact on the Partnership and the

## Section 3 Detailed Findings / Information

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achievement of its objectives if not managed. Immediate management action needs to be taken to reduce the level of net risk.”

21. The Management action was to identify and implement the following 11 controls:
- Information sharing through residential care providers forum and home care providers forum
  - Scotland Excel information regarding resilience provided by Scottish Government
  - Contract meetings with individual providers
  - Attendance of providers at Resource Allocation Meetings
  - Fair Cost of Care to be applied to all options under Self Directed Support
  - Support to Providers with recruitment events
  - Monitoring of market capacity
  - Some in-house capacity as provider of last resort
  - Care inspectorate reports and improvement plans
  - Feedback from link managers for care homes and joint assurance visits during Covid 19
  - Scottish Care role in monitoring resilience of providers.
22. The AHSCP took part in a survey from the Care Inspectorate initiating a review of care at home and supported housing during the pandemic. From the feedback received the AHSCP concluded that their approach was broadly similar to the rest of Scotland, with no further areas for improvement identified as part of this survey. There is also a member of the Care Inspectorate on the Care at Home Operational Group and the Care Home Operational Group thus fostering close liaison between them and providing the opportunity to share best practice.

### **Control 3 - Adequate controls are in place to mitigate the risks identified.**

23. There are 11 controls in place, as outline above, with mitigating actions identified to manage the Commissioned Service Provider Failure risk. The controls have an effectiveness rating and mitigating actions have been allocated to a named action owner with target dates. There are also updates on each of these actions. The actions include, among others, information sharing with providers, using Scotland Excel information regarding resilience provided by the Scottish Government (the Scottish Government may become aware of a national provider or care home chain experiencing financial difficulties), meetings with contract providers on an individual basis, regular weekly meetings of managers and supporting providers with recruitment and contract monitoring meetings. This information contributes to the IJB’s risk assessment.
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## Section 3 Detailed Findings / Information

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24. One of the controls is that there is some capacity in-house as provider of last resort. The Enablement and Response Teams have been used for delayed discharges where care packages have not been available, or on occasion when the provider did not have capacity to fulfil the full package i.e. if am and pm visit and the provider can only fulfil one session. The Enablement and Response Teams may do this until the provider has capacity. New Scottish Government funding has been used to add another ten staff to this Team giving a total of 106.
25. These controls and actions are monitored at the regular meetings of the Clinical Care & Professional Governance Group (CCPG) which meets every two months.
26. As part of the mitigating actions the Senior Planning Officer (Strategic Partner Relations):
- has regular meetings with the Angus Provider Forum,
  - is in regular contact with the Providers,
  - receives a provider Quality Screening report weekly which contains concerns/compliments raised by care managers/service users/families. These are reviewed with any concerns being passed to the Team Manager. If required improvement plans are put in place and reviewed regularly. The Senior Planning Officer also receives Care Inspectorate reports on providers and is invited to attend feedback sessions following these inspections. The Care Inspectorate will also share improvement plans. The Senior Planning Officer will work closely with providers to monitor progress and offer support of the improvement plan. This has been successful and has helped avoid any serious failure. Any serious concerns regarding providers are advised to the Care Inspectorate, as well as the updates from the weekly meetings with providers. The Care Inspectorate and AHSCP work closely together and share information.
  - attends Resource Allocation Meetings fortnightly. The members of this group consist of AHSCP managers and providers of care at home. Information is shared with available providers and corresponding capacity identified resulting in service users being allocated care more efficiently.
27. Market capacity is monitored by analysing weekly data of hours delivered and any unmet need. These are categorised into service users waiting for new services, service users waiting for increases to existing services, service users in respite waiting for services and service users in hospital waiting for services plus the length of time Service Users are waiting for each of these services. Weekly unmet hours are analysed by client group and area, with this information then used to prioritise services.
28. There is a weekly Care at Home Operational Group attended by The Senior Planning Officer (Strategic Partner Relations), Senior Managers and a 3<sup>rd</sup> party provider representative. These meetings are minuted with action notes produced for each item on the agenda with a named lead and deadline for each action.
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29. There is ongoing work regarding recruitment, with a working group set up to look at this. There is an action plan and mind map for recruitment/retention for Care at Home detailing who to advertise to, who to target, where to hold recruitment events, which providers to include and how to help care at home providers to retain staff. The AHSCP also provide a portal to enable providers to advertise for staff free of charge. As well as supporting providers recruitment and retention, the Scottish Government has now provided funding to increase the wages for care staff. As above, additional Scottish Government funding has been received and allocated to support care at home.
30. We welcome the wide range of action taken to help providers attract and retain staff. To assess the effectiveness of the control actions taken, we would recommend that data on workforce is monitored regularly at the Care Home and Care at Home operational groups. This principle should be extended so that performance of the controls can be measured against agreed parameters which indicate the sustainability of a provider and provide early risk warnings.
31. The update on the risk at 10 January 2022 stated that to further mitigate risk to service users, a weekly Prioritisation Oversight Group has been introduced which prioritises allocation of services. This group first met on 13 December 2021 and has met twice weekly since. The group identifies critical priorities and by working closely with providers ensures that priority cases are allocated to a provider. This group takes a county-wide approach and has greater management oversight than the Resource Allocation Meetings group, with communication between AHSCP, providers and NHS Tayside Discharge Hub.
32. The Prioritisation Oversight Group is not currently listed as a control on the Commissioned Service Providers strategic risk. As part of our discussions with management, reference was made to a large number of fora and working groups involved in commissioned service providers. Clarity is needed on the role each group plays in controlling the overall strategic risk and this should be clearly set out as part of the next update to the risk.
33. The Head of Community & Care Services, the risk owner, has also had a meeting with the manager of Angus Council's Legal Team 1 to discuss this risk and the planned interventions to manage it. This was to ensure proper risk management processes were in place to prevent any legal challenges if services could not be supplied. We were informed that Legal are satisfied with these.
34. A new group has been established and is now in the process of agreeing their terms of reference, between the Partnership and Independent Care Providers. This group has good representation from both care home managers and care at home providers. This group will be a sub-group of the CCPG.
35. Although the adequacy of the control environment is reduced by the weaknesses in respect of Business Continuity Plans identified elsewhere in this report, those controls
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## Section 3 Detailed Findings / Information

that are in place appear reasonable and are appropriately monitored with action taken where appropriate.

**Control 4 - Adequate contingency plans are in place to ensure services can continue to be delivered in the event that risk mitigation is unsuccessful, and these plans are regularly reviewed and updated.**

36. There is no corporate AHSCP Business Continuity Plan (BCP). We were informed that it is providers of commissioned services that have BCPs.
37. Managers in the AHSCP have BCPs for their own services, for example Kinloch Care Centre, Seaton Grove, Community Meals, plans per locality and the Enablement and Response Team but none which covers failure of Commissioned Services.
38. At the tender stage, one of the evaluation criteria is that providers must evidence business continuity arrangements. From tender application Q14 Management and Leadership – “Evidence of business continuity arrangements, including on-call or cover arrangements for unexpected absences and a plan for dealing with foreseeable situations which may threaten the delivery of the service e.g. adverse weather, strike action, an outbreak of illness or a natural disaster”.
39. Section 45 of the contract / framework agreement is ‘Force Majeure and Business Continuity’. Paragraph 45.5 states “The Provider will develop, implement, maintain and hold responsibility for processes and procedures in relation to a “Business Continuity Plan”. This is to include but not be limited to the occurrence of a flu pandemic, fire, riot or other disturbance and should be developed in consultation with any appropriate statutory or regulatory authorities. The Provider will provide a copy of its Business Continuity Plan to the Authority within fourteen (14) Days, upon request, or as soon as is practicable in the case of an emergency. The Provider shall notify the Authority and any Supported Persons who are affected as soon as is reasonably practicable of the activation of said Plan.
40. One clause in the Service Specification refers to Business Continuity – “The Provider will maintain a comprehensive Business Continuity Plan setting out its approach to managing foreseeable situations which may threaten the delivery of Services.
41. At the beginning of the pandemic providers were asked to submit their business continuity plans as part of a questionnaire that was sent out. Returns were graded green, amber or red for each question, with green being acceptable, no further action required, amber – possibly acceptable, possibly further information / assessment required and red being unacceptable, inadequate business continuity preparation, high risk of failure. One question was “Does your organisation have a business continuity management plan in place which meets the requirements of BS 25999, ISO 22301 or an equivalent standard?”
42. Of 76 providers there were 13 red responses, 7 amber, 19 green and 34 blank. Notes against the relevant returns state “Responses provided would normally cause concern due to absence of a BCM Plan. On the assumption that regular communication takes

## Section 3 Detailed Findings / Information

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*place and that flexibility of support is provided, it is recommended that further action take place after the COVID crisis.”* The non-returns providers were sent a reminder but we were informed that the Procurement Manager made the decision that due to other priorities this was not to be followed up, although we were informed that there was daily contact with providers. In our opinion, this presents a significant weakness and is not proportionate to the significant risk and serious impact on the organisation posed by this issue, or indeed of a failure by suppliers to honour contract commitments.

43. The standard template for new contracts contains the following: *‘Where any Party becomes aware of anything which may lead to a serious risk to the health or safety of Supported People, they will alert the other Parties. The Purchaser and Provider will then meet to discuss any issue raised by Conditions 44.2.1 or 44.2.2 and agree any actions that are required to mitigate the risks, which may include support to the Provider from the Purchaser under their own Business Continuity Plan or such other actions by the Purchaser as may be agreed, to the extent required to carry on the Service and safeguard Supported People.’*
44. We were informed that Procurement have never routinely asked to see BCPs before awarding contracts or when they’ve been updated and they are not monitored as part of routine contract monitoring. In our view, BCPs appear a key control and given the seriousness of the overall risk, any aspects of the contract specification which help to prevent provider failure should be prioritised in contract monitoring.





The AHSCP rely on the provider having a robust BCP / contingency plan in place but although it is a contract requirement this has not been adequately checked and kept under review. In addition, although AHSCP are managing the risk they have no formal contingency plan in place in the event that risk mitigation is unsuccessful.

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## Section 4 Definitions of Assurance and Recommendation Priorities

### Definition of Assurance

To assist management in assessing the overall opinion of the area under review, we have assessed the system adequacy and control application, and categorised the opinion based on the following criteria:





Level of Assurance		System Adequacy	Controls
Substantial Assurance		A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.	Controls are applied continuously or with only minor lapses.
Reasonable Assurance		There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.	Controls are applied frequently but with evidence of non-compliance.
Limited Assurance		Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.	Controls are applied but with some significant lapses.
No Assurance		Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.	Significant breakdown in the application of controls.



## Section 4 Definitions of Assurance and Recommendation Priorities

### Assessment of Risk

To assist management in assessing each audit finding and recommendation, we have assessed the risk of each of the weaknesses identified and categorised each finding according to the following criteria:

Risk Assessment		Definition	Total
Fundamental		Non Compliance with key controls or evidence of material loss or error. <b>Action is imperative to ensure that the objectives for the area under review are met.</b>	
Significant		Weaknesses in design or implementation of key controls i.e. those which individually reduce the risk scores. <b>Requires action to avoid exposure to significant risks to achieving the objectives for area under review.</b>	
Moderate		Weaknesses in design or implementation of controls which contribute to risk mitigation. <b>Requires action to avoid exposure to moderate risks to achieving the objectives for area under review.</b>	
Merits attention		There are generally areas of good practice. <b>Action may be advised to enhance control or improve operational efficiency.</b>	