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Bwrdd Iechyd Prifysgol
Bae Abertawe
Swansea Bay University
Health Board



Meeting Date	12th March 2020	Agenda Item	5.3
Report Title	Losses and Special Payments Update		
Report Author	Andrew Biston, Head of Accounting & Governance		
Report Sponsor	Lynne Hamilton, Director of Finance		
Presented by	Andrew Biston, Head of Accounting & Governance Finance		
Freedom of Information	Open		
Purpose of the Report	To provide the Audit Committee with an update on losses and special payments for the period 1st August 2019 to 30 th November 2019 and provide an analysis of the gross losses for 1st April 2019 to 30 th November 2019 compared to the period 1st April 2018 to 30 th November 2018.		
Key Issues	<p>The losses and special payments recorded during the period 1st August to 30th November 2019 totalled £3,503,676 of which £2,617,721 is recoverable from the Welsh Risk Pool. Taking this recovery into account, the actual loss to the Health Board in the period totals £855,955.</p> <p>Of the losses and special payments made in the period a total of £782,172 related to cases pre 31st March 2019 for locations which transferred to Cwm Taf Morgannwg Health Board on 1st April 2019 of which the actual loss after recoveries are taken into account was £216,975.</p> <p>After the recoveries from Welsh Risk Pool are taken into account, the net loss of £1,595,181 to the Health Board for the period 1st April 2019 to 30th November 2019 is slightly higher than the net loss of £1,585,130 for the comparable period 1st April 2018 to 30th November 2018.</p>		
Specific Action Required <i>(please ✓ one only)</i>	Information	Discussion	Assurance
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Recommendations	<p>Members are asked to:</p> <p>Note</p> <p>The losses and special payments made in the period which will need to be reported to the Board</p>		

1. INTRODUCTION

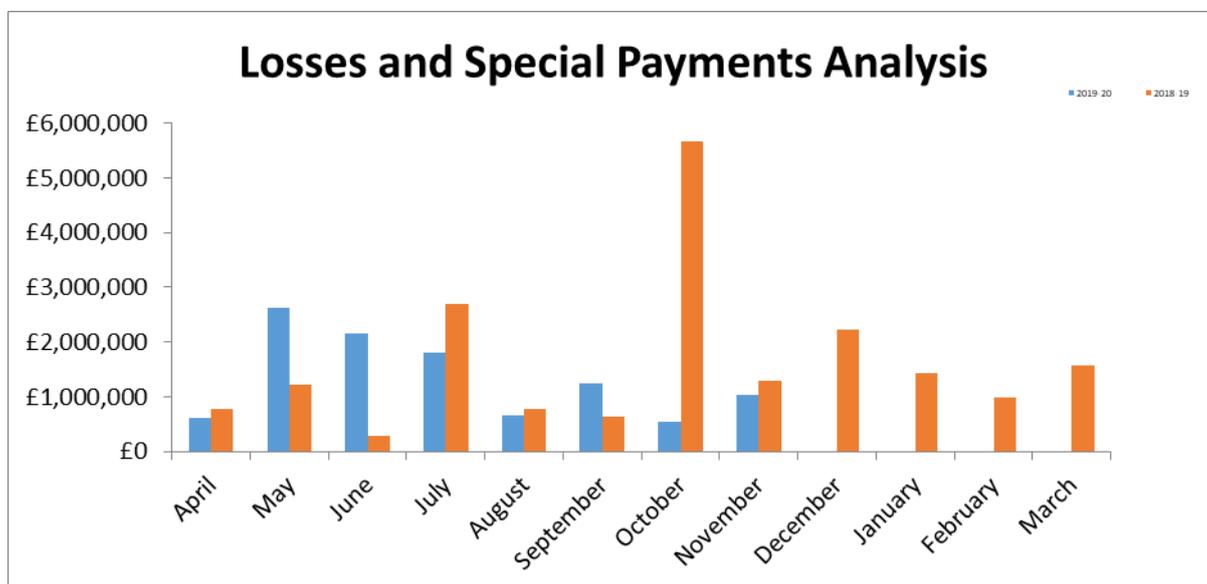
- 1.1. The Audit Committee handbook recommends that losses and special payments made by the Health Board be reported to the Audit Committee. This report addresses that requirement by providing an update on losses and special payments, for the period 1st August 2019 to 30th November 2019 and an analysis of the gross losses for 1st April 2019 to 30th November 2019 compared to the period 1st April 2018 to 30th November 2018.

2. BACKGROUND

- 2.1. The losses and special payments recorded during the period totalled £3,503,676, with the most significant payments relating to Clinical Negligence (£3,052,822), Redress (£207,210) and Personal Injury (£224,959). The remaining losses relate to losses arising as a result of write off of obsolete drug stock, ex gratia payments, bad debts written off and compensation payments.
- 2.2. These losses are detailed in **Appendices A to G** and are summarised in the table below:

Loss Type	Value £
Obsolete Drug Stock	6,243
Ex Gratia Payments	3,125
Bad Debt Written Off	8,569
Compensation Payments	750
Redress Payments	207,210
Clinical Negligence - Defence Fees	219,064
Clinical Negligence – Claimant Costs	-168,371
Clinical Negligence – Damages	3,002,128
Clinical Negligence – CRU Payments	0
Personal Injury – Defence Fees	50,920
Personal Injury – Claimant Costs	45,410
Personal Injury - Damages	108,516
Personal Injury – CRU Payments	20,112
Total	3,503,676

2.3. As a result of the losses incurred during the period August to November 2019, the gross loss for the financial year to date comprising 1st April 2019 to 30th November 2019 amounts to £10,689,666 as compared to £13,352,671 for the period 1st April 2018 to 30th November 2018. The chart below analyses these losses and special payments on a month by month basis.



2.4. The graph above shows that there are variations in payments across the year with there being no discernible trend to when cases are settled. The reduction in payments in the period April to November this financial year compared to the same period in the last financial year is due to a large value obstetric case which settled in October 2018 amounting to £3.977m. For the period 1st April 2019 to 30th November 2019, the table below shows all settlements over £500,000 in value.

Case Reference	Location	Speciality	Amount Paid (£)
11RYMMN0156	Morrison	General Surgery	1,961,278
17RYMMN0006	Singleton	Ophthalmology	1,912,500
15RYMMN0151	Singleton	Obs & Gynae	1,105,000
14RYMMN0033	Singleton	Obs & Gynae	584,393
Total			5,563,171

2.5. As part of the transfer of assets and liabilities arising from the Bridgend boundary change, the transfer order included an exception to the principle that all assets and liabilities transfer for clinical negligence, personal injury and redress cases which were open prior to the date of transfer. Therefore this report includes payments on cases prior to 31st March 2019 for the Princess of Wales Hospital and will continue to do so until all those cases have closed, a process which will take several years. For the period August to November 2019, the gross losses split by the post boundary change

location for these cases is shown in the table below, with the detail shown in **Appendices B, D and F** of this report.

Loss Type	Total (£)	Swansea Bay Locations (£)	Cwm Taf Morgannwg Locations (£)
Clinical Negligence	3,052,822	2,359,592	693,230
Personal Injury	224,959	166,740	58,219
Redress	207,210	176,487	30,723
Total	3,484,991	2,702,819	782,172

3. GOVERNANCE AND RISK ISSUES

- 3.1. This paper addresses the financial governance requirements for reporting Losses and Special Payments to the Audit Committee. The Health Board adheres to the authorisation process for such payments as prescribed in the Welsh Government Losses and Special Payments manual and Standing Financial Instructions ensuring sound financial governance for such payments
- 3.2. The clinical governance issues raised and lessons learned from previous claims are discussed as part of the clinical governance agenda and does not form part of this report to the Audit Committee.

4. FINANCIAL IMPLICATIONS

- 4.1. The financial implications associated with Losses and Special Payments for the Health Board comprise two elements. Firstly, there is the amount directly taken from the health budget by Welsh Government to fund the Welsh Risk Pool. This is supplemented by a risk sharing agreement across NHS Wales which requires additional contributions to be made from Health Boards and Trusts in the event that the amount required by Welsh Risk Pool exceeds this directly funded amount. In 2019/20 there is a requirement to invoke this agreement due to the value of settlements exceeding the amount of the top sliced funding. It is estimated that the Swansea Bay share of the additional costs will be around £1.6m depending on the timing and value of settlements in quarter 4 of this financial year. This figure has been factored into the forecast year end outturn position for the health board.
- 4.2. The second implication is the net charge to the Health Board's resource limit of costs incurred which comprise the first £25,000 of all clinical negligence and personal injury claims, legal fees for redress claims which are not reimbursed under the Putting Things Right Scheme and the cost of all other losses and special payments.
- 4.3. The Committee are advised that for redress cases the reimbursement of these claims transferred from Welsh Government to Welsh Risk Pool as part of Legal and Risk Services in the last quarter of the 2018/19 financial year. At the same time, the accounting treatment of redress payments changed from a

cash basis to an accruals basis, resulting in the requirement to calculate a balance sheet provision for all redress cases, a change in the reimbursement process to only allow claims to be made when the redress case has closed and increased reporting requirements to Welsh Risk Pool, all of which have had resource implications for the claims management and finance teams.

- 4.4. In addition with effect from 1st April 2019, Welsh Government introduced the GP Indemnity Scheme which will be administered by Welsh Risk Pool and will require health boards to manage the scheme on a day to day basis. As the scheme covers only new clinical negligence claims cases lodged since 1st April 2019 against GP's, (claims prior to 1st April 2019 will continue to be managed by the Medical Defence bodies) the health board has not yet received any claims. As and when claims are lodged and payments made the payments will be reported through this report. Again the introduction of this scheme and the increased recording, monitoring and reporting requirements will have resource implications for the claims management and finance teams.
- 4.5. Of the £3,503,676 paid out in the period 1st August 2019 to 30th November 2019, £2,431,951 in respect of clinical negligence and personal injury claims and £185,770 in respect of redress claims is recoverable from the Welsh Risk Pool. Taking this recovery into account, the actual loss to the Health Board in the period totals £885,955, as summarised in the table below:

Losses & Special Payments	Amount £
Clinical Negligence	3,052,822
Personal Injury	224,959
Obsolete Drug Stock	6,243
Ex Gratia Payments	3,125
Bad Debt Written Off	8,569
Compensation Payments	750
Redress Payments	207,210
Sub Total	3,503,676
Less WRP Recovery	-2,431,951
Less Redress Payments Reimbursed by WRP	-185,770
Health Board Losses in the Period	885,955

- 4.6. Analysing this by location, the net cost to the health board split between those cases which are Swansea Bay cases and those pre 31st March 2019 cases

relating to locations which have transferred to Cwm Taf Morgannwg Health Board is as detailed in the table below, which shows that £216,975 relates to cases prior to 31st March 2019 for locations which transferred to Cwm Taf Morgannwg Health Board on 1st April 2019.

Loss Type	Total (£)	Swansea Bay Locations (£)	Cwm Taf Morgannwg Locations (£)
Clinical Negligence	692,641	513,042	179,599
Personal Injury	153,188	110,132	43,056
Redress	21,440	21,120	320
Other Losses	18,867	18,867	0
Total	885,955	683,160	216,975

- 4.7. After the recoveries from Welsh Risk Pool are taken into account, the net loss totals £1,595,181 for the period 1st April 2019 to 30th November 2019 and £1,585,130 for the period 1st April 2018 to 30th November 2018.

5. RECOMMENDATIONS

- 5.1. The Audit Committee is asked to note the losses and special payments in the period of £3,503,676, of which £2,617,721 will be recovered from the Welsh Risk Pool (£2,431,951 in respect of clinical negligence and personal injury and £185,770 in respect of redress), leaving an actual loss to the Health Board in the period of £885,955.
- 5.2. The Audit Committee is also asked to note that of the £885,955 loss to the health board in the period, that £216,975 relates to cases pre 31st March 2019 for locations which transferred to Cwm Taf Morgannwg Health Board on 1st April 2019.
- 5.3. These losses and special payments will need to be reported to the Board and disclosed in the Health Board's Annual Accounts.

Governance and Assurance		
Link to Enabling Objectives <i>(please choose)</i>	Supporting better health and wellbeing by actively promoting and empowering people to live well in resilient communities	
	Partnerships for Improving Health and Wellbeing	<input type="checkbox"/>
	Co-Production and Health Literacy	<input type="checkbox"/>
	Digitally Enabled Health and Wellbeing	<input type="checkbox"/>
	Deliver better care through excellent health and care services achieving the outcomes that matter most to people	
	Best Value Outcomes and High Quality Care	<input checked="" type="checkbox"/>
	Partnerships for Care	<input type="checkbox"/>
	Excellent Staff	<input checked="" type="checkbox"/>
	Digitally Enabled Care	<input type="checkbox"/>
	Outstanding Research, Innovation, Education and Learning	<input type="checkbox"/>
Health and Care Standards		
<i>(please choose)</i>	Staying Healthy	<input checked="" type="checkbox"/>
	Safe Care	<input checked="" type="checkbox"/>
	Effective Care	<input checked="" type="checkbox"/>
	Dignified Care	<input checked="" type="checkbox"/>
	Timely Care	<input checked="" type="checkbox"/>
	Individual Care	<input checked="" type="checkbox"/>
	Staff and Resources	<input checked="" type="checkbox"/>
Quality, Safety and Patient Experience		
<p>Expenditure on losses and special payments arises as a result of clinical negligence resulting in harm to patients and is therefore reflective of poor quality and safety and patient experience. Similarly personal injury payments to patients, visitors and staff reflects poor procedures and management of the hospital environment. Ex-gratia payments also result in poor patient experience through the loss or damage to personal items.</p> <p>It is therefore imperative that the number and value of losses payments is reduced and the achievement of this reduction will result in improved quality, safety and patient experience.</p>		
Financial Implications		
The financial implications are detailed in the main body of the report.		
Legal Implications (including equality and diversity assessment)		
The legal aspects of clinical negligence, personal injury and redress cases are managed through the solicitors employed by Legal and Risk Services who form part of the NHS Wales Shared Services Partnership. The day to day administration of the claims is managed by the Patient Feedback Team within the health board, acting on the advice received from Legal and Risk Services.		
Staffing Implications		

Whilst there are no direct staffing implications associated with this report it must be noted that the change in the accounting treatment and the reimbursement process for redress claims has resulted in significant additional work for both the claims management and finance teams. This will only increase further as and when GP indemnity cases begin to be received following the introduction of this scheme on 1st April 2019.

Long Term Implications (including the impact of the Well-being of Future Generations (Wales) Act 2015)

The key issue for the “The Well-being of Future Generations (Wales) Act 2015, 5 ways of working is that loss payments and incidents of clinical negligence and personal injury reflect the fact that incidents which cause harm/loss have taken place. It is essential that the occurrence of such incidents is reduced through improved processes, governance and prevention in order to help the health board as a public body meet the objective of doing no harm.

Report History	This is a regular report to the Audit Committee in line with the agreed work plan, the previous report being presented to Audit Committee in September 2018.
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Appendices	Appendices A to G provide the details of all losses and special payments made in the period 1 st August 2019 to 30 th November 2019.
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