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Bwrdd Iechyd Prifysgol  
Abertawe Bro Morgannwg  
University Health Board



Meeting Date	20.06.2018	Agenda Item	2f
Report Title	<b>Continuing NHS Healthcare Quarter Four: January – March 2018</b>		
Report Author	Jason Crowl (Unit Nurse Director), Mike Sullivan (Locality Manager) and Eirlys Thomas (Head of Nursing)		
Report Sponsor	Hilary Dover ( Service Director)		
Presented by	Tanya Sprigs (Head of Nursing)		
Freedom of Information	Open		
Purpose of the Report	This report aims to provide an update on the Q4 activity and highlight areas of relevance to the financial and performance management relating to CHC funded care.		
Key Issues	<p>Management and performance of CHC and FNC.</p> <p>Retrospective CHC Claims and the implications of the Powys All Wales Retrospective Review Team closing in December 2018.</p> <p>Actions taken to date in relation to the Supreme Court Judgement for future and backdated FNC rates, in which respect, Care Forum Wales (CFW) have raised concern regarding 2 residual issues, namely the calculations that have been made to reach the current FNC rate and the need for evidence to be provided by Care Homes regarding paid breaks.</p> <p>CFW have also advised that their Solicitors will be issuing Pre Action Protocol Letters to Health Boards shortly, this has to be done within 3 months of the HBs decision and whilst CFW advise that this is a procedural step that protects their right to challenge should that be necessary, it is nevertheless an action which HBs will need to consider in terms of the appropriate All Wales response.</p> <p>Care Forum Wales also advise that as of the first week in June only 2 Health Boards have issued the letter to Care Homes regarding the 17/18 uplift. The remaining Health Boards have been urged to ensure that this matter has been actioned with immediate effect.</p>		

<b>Specific Action Required</b> <i>(please ✓ one only)</i>	<b>Information</b>	<b>Discussion</b>	<b>Assurance</b>	<b>Approval</b>
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<b>Recommendations</b>	Members are asked to: <ul style="list-style-type: none"> <li>• <b>Receive the update on the Supreme Court Judgement for FNC rates</b></li> <li>• <b>Receive the impact resulting from the closure of the Powys All Wales Retrospective Review Team in December 2018.</b></li> </ul>			

# **Continuing NHS Health Care Quarter Four: January-March 2018**

## **1. INTRODUCTION**

This report aims to provide an update on the Q4 activity and highlight areas of relevance to the financial and performance management relating to CHC funded care.

## **2. BACKGROUND**

Welsh Government (WG) issued a revised policy document on Continuing NHS Healthcare (CHC) in 2014. The 2014 CHC National Framework included a Performance Framework specific to CHC, with a key requirement that each Health Board receive a formal quarterly CHC Position Report. This was subsequently revised in 2015 to require consideration either at HB Board or at an appropriate Board level Committee if this route allows for more detailed scrutiny and analysis.

The quarterly reporting requirement has been supported by Wales Audit Office (WAO) in their 2013 and 2014 Reports, and compliance is required by the Assembly Public Accounts Committee.

## **3. GOVERNANCE AND RISK ISSUES**

WG have issued a Performance Framework that is specific to CHC. Two key components of the Performance Framework are the Annual Self-Assessment and the Annual Sample Audit.

All Health Boards completed a Self-Assessment against the recommendations identified in the Older People's Commissioner (OPC) for Wales 'A Place to Call Home' report. In addition to the March 2017 response further evidence was submitted in May 2018. The OPC has responded to the May 2018 submission acknowledging the development of Good Work Dementia Training undertaken in partnership with Local Authorities across the region. However, would like to see this work developed further to encompass all care homes with further development of the Health Boards dementia advisory team.

Work is underway with WG, via the lead CEO, to review the current policy landscape and the range of groups in place. The role and function of the National Complex Care Board and Stakeholder Reference Group forms part of that consideration. The National Complex Care Board will be considering a revised approach in terms of their future remit.

The retrospective claims process has been established to consider claims from individuals or their family/representative that they should have been eligible for CHC funding for past care needs but, for a number of reasons, they were either not assessed or not determined eligible, and thus were required to contribute to their package of care. The All Wales Retrospective Review Team, based in Powys Teaching Health Board are continuing to process claims for phases 1, 2 and 3 of the project. This project will cease in December 2018, however, there are currently 127 cases remaining, approximately 60 to 70 cases will be returning to the Health Board for review. This will be closely monitored by ABMU during the next six months.

## Retrospective Cases January 2018 to March 2018

There are no breaches; all cases have been reviewed within the recommended timeframe.

CASES	STATUS	COMMENT
11	Received	Applications received in Q4.
13	Activated	These are the cases where all the relevant documentation has been received to allow activation ready for review.
10	Reviewed	These are the cases that have been reviewed by the Nurse Assessor. Chronology and Needs Assessment completed. Outcome determined and sent to Solicitor / Claimant.
10	Closed	Cases that have been closed due to either claimant not wanting to pursue or no relevant documentation received within the 5-month timescale.

### **Judicial Review**

The Finance and Performance Group members will be aware of the Judicial Review process that has now ended and concluded that Health Boards are required to increase payments to cover additional elements within the overall care costs.

An action plan is being developed by the National Lead for Complex Care and overseen by Chief Executive of NHS Wales and is expected to be taken forwards for discussion at a future All Wales NHS Chief Executives Meeting for agreement. On receipt of the agreed implementation plan, local arrangements will be put into place to assess the impact and work through the necessary actions. A joint letter from ABMU Lead Executive Director and LA Directors will be sent to providers in June 2018 informing them of the uplift and backdated payment arrangements.

A pooled budget between health and social care for the provision of care to older people residing in care homes needed to be in place by 6th April 2018 as required by the Social Services & Wellbeing (Wales) Act (2016). Following a period of intense work the multi-agency Pooled Fund for Care Homes Task and Finish Group have agreed a non-risk Sharing Pooled Fund arrangements under a Section 33 Agreement which are being progressed through the governance structures of the respective organisations.

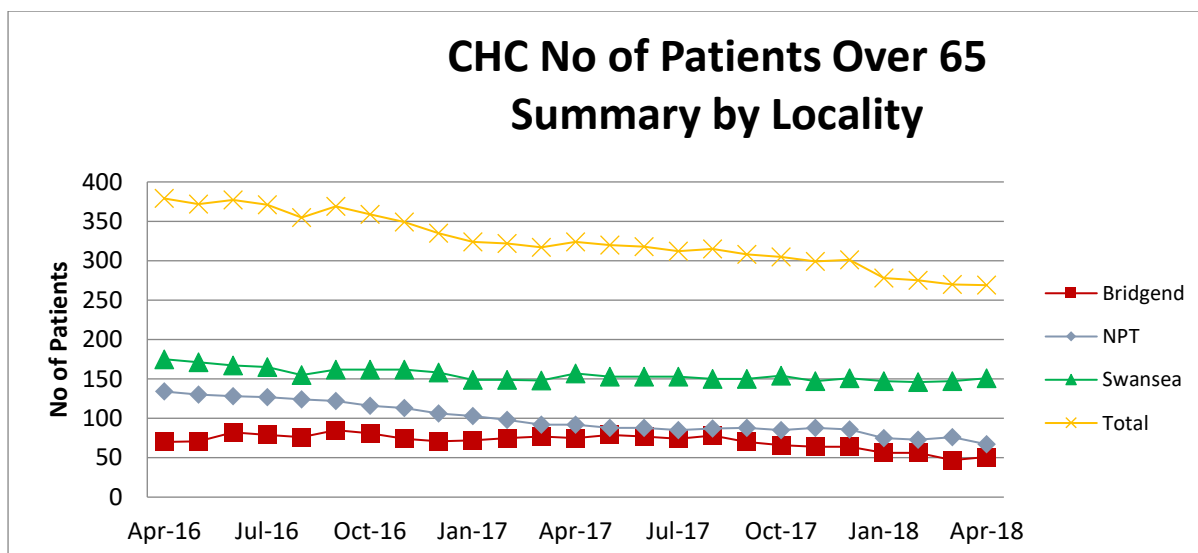
The Regional Partnership Board is responsible for designing and implementing arrangements to ensure the partnership bodies work effectively together. Regional Partnership Boards are expected to develop written agreements concerning any formal partnership arrangements that involve a delegation of functions.

Key elements are:

- The pooled fund will include care and accommodation for adults who need long term care in registered residential settings because they have complex health and social care needs that require care interventions on a 24 hour basis that cannot be delivered in their own home or alternative settings.
- The pooled arrangement will apply to externally commissioned services i.e. residential, nursing and continuing health care funded beds.
- It will apply regardless of the cost of placement and will therefore include some specialist provision, for example, care for people who have acquired brain injury or a degenerative neurological disorder.
- It will apply for those who have physical health and social care needs as well as those who are living with dementia.
- It will cover respite, recovery and reablement for people who move directly from home into care home provision and for those moving from hospital once their hospital-based interventions are completed and they will no longer benefit clinically from hospital care.
- It will exclude the range of services commissioned for people with mental health and learning disability related needs.
- People who are residents of Swansea, Neath Port Talbot and Bridgend will be the recipients of funding from the pooled fund; this will be the case regardless of where they are placed, although the usual rules of residence for FNC, CHC and LA care will apply

CHC continues to present a challenge to the Delivery Units with the prime responsibility for managing this agenda: Mental Health/Learning Disability, Primary Care and Community Services and Singleton. In November 2016 the responsibility for managing the Children's Continuing Healthcare service transferred from PC & CS to the Singleton Unit. The financial pressures remain, although progress has been made in all areas in stabilising and in some cases reducing expenditure. Assurance concerning quality of service provision also remains an ongoing challenge due to the nature of many of the placements that are commissioned for individuals with very complex healthcare needs. Placements are geographically widespread as well as being extremely diverse in relation to the type of service provision. Sustaining sufficient clinical expertise in the HB teams to undertake pre-placement checks and ongoing reviews is essential.

Overall, the number of CHC cases continues to show a reduction, there has been a slight increase in the number of FNC cases which is expected due to the high level of scrutiny being undertaken around CHC eligibility and the Implementation of the FNC Application document.



WG issued a revised CHC National Framework in 2014. This reflected recommendations made by both the Wales Audit Office and the Public Accounts Committee, who continue to monitor implementation, with the most recent report issued by PAC in March 2015 including a further series of recommendations.

As part of the separate CHC Performance Framework required by WG, Boards are required to receive a quarterly report on CHC, and this paper fulfils that requirement. It informs the Board of developments and current issues relevant to CHC, both nationally and locally.

#### 4. FINANCIAL IMPLICATIONS

The downward trend in number of patients receiving general community CHC packages of care is also reflected in the improving CHC financial position of the Health Board. The CHC & FNC spend information below includes a funded uplift in Qtr 3 in relation to PC&CS CHC and FNC.

Category	Qtr 1 2017/18 £m	Qtr 2 2017/18 £m	Qtr 3 2017/18 £m	Qtr 4 2017/18 £m	Total 2017/18 £m	Forecast 2018/19 £m
<u>MH&amp;LD</u>						
CHC	6.3	6.6	6.5	7.7	27.1	26.3
<u>PC&amp;CS</u>						
CHC	5.1	4.9	5.6	4.7	20.3	20.0
FNC	2.2	2.2	2.2	2.5	9.1	9.0
Total	13.6	13.7	14.3	14.9	56.5	55.3

General community CHC packages continue to reduce and it is not clear at which point this will begin to level out.

The expected impact of the funded nursing care judicial review has been calculated and a provision made in the accounts during 2017/18. This is based on all individuals claiming the full entitlement. The assessed value of backdated payments to 2014/15, along with interest and legal fees, is £3.4m with an ongoing annual cost impact of approximately £750k per year from 2018/19. Both the provision and the ongoing cost have been funded by Welsh Government.

2018/19 CHC and FNC uplifts are currently being finalised with an expectation that the uplifts will be set at a level in line with the Health Board financial plan and hence will be funded in full by the Health Board.

## **5. RECOMMENDATION**

The Committee is asked to:

- **Note** the update on the Supreme Court Judgement for FNC rates.
- **Note** the OPC Self Assessment Response;
- **Note** the closure of the All Wales Retrospective Team.
- **Note** the financial implications highlighted in the report in relation to FNC