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Bwrdd Iechyd Prifysgol  
Abertawe Bro Morgannwg  
University Health Board



<b>Meeting Date</b>	<b>22<sup>nd</sup> October 2018</b>	<b>Agenda Item</b>	<b>2b</b>
<b>Report Title</b>	<b>Continuing NHS Healthcare Quarter 1 Report: April – June 2018</b>		
<b>Report Authors</b>	Jason Crowl (Unit Nurse Director), Mike Sullivan (Locality Manager) and Eirlys Thomas (Head of Nursing), Diane Fletcher (Head of Long Term Care)		
<b>Report Sponsor</b>	Gareth Howells, Executive Nurse Director		
<b>Presented by</b>	Gareth Howells, Executive Nurse Director, Jason Crowl Unit Nurse Director		
<b>Freedom of Information</b>	Open		
<b>Purpose of the Report</b>	This report aims to provide an update on the Q1 activity and highlight areas of relevance to the financial and performance management relating to Continuing Health Care (CHC) funded care.		
<b>Key Issues</b>	<ul style="list-style-type: none"> <li>• Management and performance of CHC and Funded Nursing Care (FNC).</li> <li>• Retrospective CHC Claims and the implications of the Powys All Wales Retrospective Review Team closing in March 2019.</li> <li>• Actions taken to date in relation to the Supreme Court Judgement for future and backdated FNC rates.</li> <li>• Escalating Concerns.</li> <li>• Change in benefit system, Bridgend area.</li> <li>• Planned closure of mental health beds, impact on the care home sector.</li> <li>• Results of WG CHC and Retrospective Audit.</li> </ul>		
<b>Specific Action Required (please ✓ one only)</b>	<b>Information</b>	<b>Discussion</b>	<b>Assurance</b>
<b>Recommendations</b>			√
	Members are asked to: <ul style="list-style-type: none"> <li>• <b>Note</b> the update on the Supreme Court Judgement for FNC rates.</li> <li>• <b>Note</b> the Older Person's Commissioner (OPC) Self-Assessment Response;</li> <li>• <b>Note</b> the closure of the All Wales Retrospective Team.</li> <li>• <b>Note</b> the financial implications highlighted in the report in relation to FNC</li> </ul>		

# **Continuing NHS Health Care Quarter One: April - June 2018**

## **1. INTRODUCTION**

This report aims to provide an update on the Q1 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 has been extended to March 2019, however, there are currently 110 cases remaining, it is not known how many of these cases will be returning to the Health Board for review. Closure plan will be closely monitored by ABMU during the next six months.

### **Health Board Retrospective Cases April 2018 to June 2018**

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

<b>CASES</b>	<b>STATUS</b>	<b>COMMENT</b>
12	Received	Applications received in Q1.
12	Activated	These are the cases where all the relevant documentation has been received to allow activation ready for review.
12	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.
20	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 costs 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 for discussion at a future All Wales NHS Chief Executives Meeting for agreement. On receipt of the agreed implementation plan, local arrangements will be in place to assess the impact and work through the necessary actions.

A joint letter from ABMU Lead Executive Director and LA Directors has been sent to providers in June 2018 informing them of the uplift and backdated payment arrangements. Care homes are in the process of being paid the backdated fees for

FNC Local Authority funded placements for 2017/18. The FNC rate for 2018/19 is currently being calculated by WG finance leads.

A proposal regarding backdating deceased self -funders is currently being prepared to consider options. There are two options, the first option is for each Health Board to manage their own claims, the second option is to extend the closure date for the Powys team and have an all Wales approach. ABMU has 1,360 deceased FNC cases, AMBU HB Retrospective Claims Team has the experience to manage these claims in house.

### **Pooled Budget**

A pooled budget between health and social care for the provision of care to older people residing in care homes needs to be in place by 6th April 2019 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.

### **Escalating Concerns**

There are currently three care homes being managed under the Escalating Concerns Policy, two in Neath Port Talbot and one in Swansea. The main concern is regarding a 92 bedded dual registered home within the NPT area, there are 24 nursing placements the remainder being residential.

### **Continuing Health Care**

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 Units.

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.

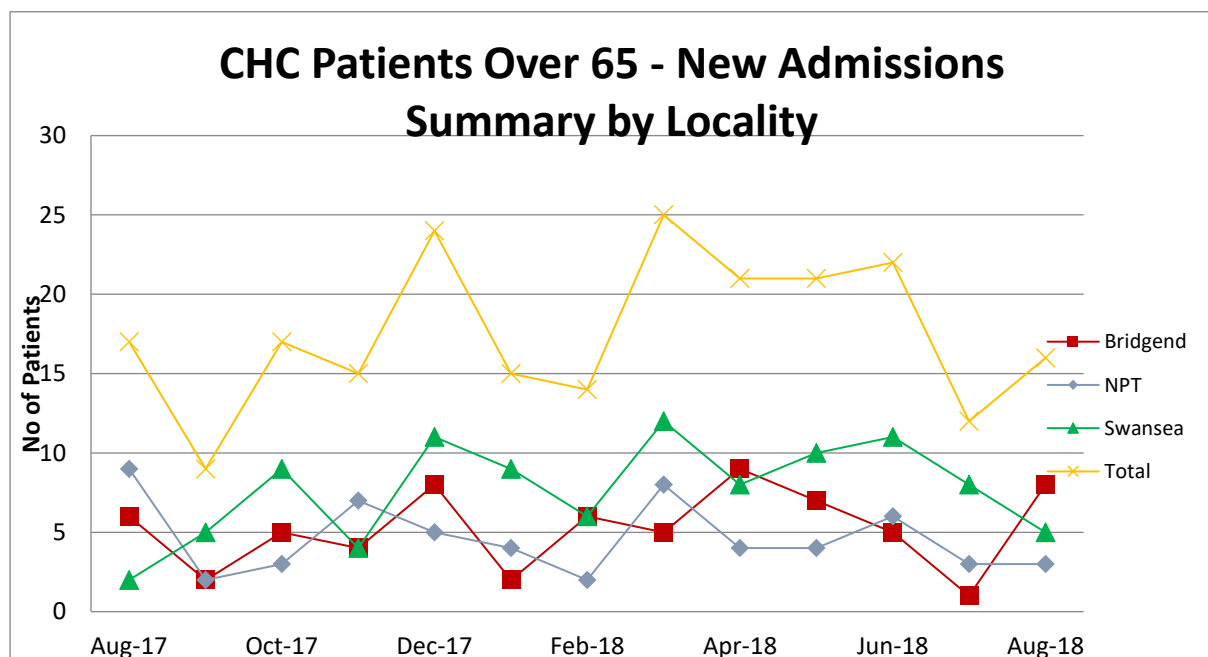
Assurance concerning quality of service provision also remains an ongoing challenge due to the nature of many of the placements commissioned for individuals with very complex healthcare needs. Placements are geographically widespread as well as being extremely diverse in relation to the type of service provision. Sustaining sufficient clinical expertise in the HB teams to undertake pre-placement checks and ongoing reviews is essential.

Following on from the planned closure of in house mental health beds the PC&CS Directorate has seen an increase in requests for high cost placements. The Directorate are receiving an increased number of CHC applications for individuals who would have previously remained in a long term mental health bed. These individuals are presenting with behaviour that is over and above that which can be managed in a generic EMI provision.

Therefore, the only available long term placements are high cost providers costing from 110K pa. Since March 2017, PC&CS have commissioned 13 high cost placements mostly from Cefn Coed Hospital at a cost of £1,140,863, there are a further four older adults in Cefn Coed Hospital seeking high cost placements. In addition, there are several individuals receiving 1:1 monitoring in a care home setting at a cost of 6k pw while medication is being adjusted by the community mental health teams. There is no pathway or provision to admit to a mental health bed for a period of assessment while their care and treatment plan is being reviewed.

The Long Term Care Team in the Bridgend area have received several requests from Local Authority to jointly fund community packages of care where the individual is having their social benefits such as ILF reviewed. The expectation is that the HB will fund any gaps in provision to sustain current packages of care. However, the Health Boards stance is that any health needs will be supported by core services.

Overall number of CHC cases continues to show a reduction, there has been a slight increase in the number of FNC cases, this 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.

The CHC National Framework is currently under review, the consultation process will commence later this year, with a view to hold national workshops next spring.

#### 4. FINANCIAL IMPLICATIONS

The downward trend in number of patients receiving general community CHC packages of care in 2017/18 is continued in quarter 1 of 2018/19 and this is reflected in the CHC financial position of the Health Board:

Category	Total 2017/18 £m	Qtr 1 2018/19 £m	Forecast 2018/19 £m	Forecast 2019/20 £m
MH&LD CHC	27.1	6.6	26.4	26.4
P&CS CHC	20.3	4.9	19.8	19.8
FNC	9.1	2.4	9.5	9.5
Total	56.5	13.9	55.7	55.7

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

The £3.4m expected impact of the funded nursing care judicial review backdated to 2014/15 was accounted for in 2017/18. This is based on all care homes and individuals claiming the full entitlement. The ongoing annual cost impact is approximately £750k per year from 2018/19. Both the provision and the ongoing cost have been funded by Welsh Government.

There is a risk that The Health Board may be liable for potential additional backdated and ongoing costs in relation to The FNC Judicial Review. This is due to a further challenge on the historic FNC rate rebasing exercise carried out in 2014 covering calculations by Laing & Buisson. The potential impact of this is currently being worked through in order to quantify.

The 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

<b>Governance and Assurance</b>							
Promoting and enabling healthier communities		Delivering excellent patient outcomes, experience and access		Demonstrating value and sustainability	Securing a fully engaged skilled workforce		Embedding effective governance and partnerships
✓		✓		✓	✓		✓
Staying Healthy	Safe Care	Effective Care	Dignified Care	Timely Care	Individual Care	Staff and Resources	
✓	✓	✓	✓	✓	✓	✓	
<b>Quality, Safety and Patient Experience</b>							
<p>Services are required to ensure CHC assessment and scrutiny processes are robust and patient sensitive.</p> <p>This paper outlines the key issues impacting quality, safety and patient experience.</p>							
<b>Financial Implications</b>							
<p>This paper outlines the historical, current and financial forecast for all three CHC budget areas.</p>							
<b>Legal Implications (including equality and diversity assessment)</b>							
<p>The paper outlines the complex CHC legal framework in respect to changes in CHC and FNC funding.</p>							
<b>Staffing Implications</b>							
None							
<b>Long Term Implications (including the impact of the Well-being of Future Generations (Wales) Act 2015)</b>							
No significant long term implications are identified within the paper.							
<b>Report History</b>		Submitted to PCS Unit Board November 2018					
<b>Appendices</b>		None					