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Bwrdd Iechyd Prifysgol  
Bae Abertawe  
Swansea Bay University  
Health Board



<b>Meeting Date</b>	<b>17 September 2019</b>	<b>Agenda Item</b>	<b>4.2</b>
<b>Report Title</b>	<b>Continuing NHS Healthcare Quarter 1 Report: April – June 2019</b>		
<b>Report Authors</b>	Jason Crowl (Unit Nurse Director PCS), Diane Fletcher		
<b>Report Sponsor</b>	Gareth Howells Executive Nurse Director		
<b>Presented by</b>	Tanya Spriggs (Interim Unit Nurse Director PCS)		
<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 CHC funded care.		
<b>Key Issues</b>	<p>Management and performance of CHC and FNC.</p> <p>Retrospective CHC Claims and the implications of the Powys All Wales Retrospective Review Team closure in March 2019.</p> <p>Actions taken to date in relation to the Supreme Court Judgement for future and backdated FNC rates.</p> <p>Planned closure of mental health beds, impact on the care home sector.</p>		
<b>Specific Action Required</b> <i>(please choose one only)</i>	<b>Information</b>	<b>Discussion</b>	<b>Assurance</b>
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Recommendations</b>	<p>Members are asked to:</p> <ul style="list-style-type: none"> <li>• Note the update on the Supreme Court Judgement for FNC rates</li> <li>• Note the impact resulting from the closure of the Powys All Wales Retrospective Review Team in March 2019.</li> <li>• Note the impact of the closure of mental beds on PC&amp;CS</li> <li>• Note issues in relation to LAC funding.</li> <li>• Note the change in commissioning arrangements for MH&amp;LD.</li> </ul>		

# Continuing NHS Health Care Quarter 1: April - June 2019

## 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. The report is compiled by PCS based on the information provided by of all Singleton DU, MHL D DU and PCS DU.

## 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.

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 holding national workshops next spring.

## 3. GOVERNANCE AND RISK ISSUES

### Retrospective Claims

The retrospective claims process for the organisation is managed through the Primary and Community Services delivery Unit. This was 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 closed at the end of March 2019, 54 cases have been returned to the Health Board for review and completion. These 54 cases have all breached, therefore, for WG and HB reporting purposes the Powys breaches will be reported separately to the HB cases where there are no breaches to date.

### Health Board Retrospective Claims Activated and Reviewed in Q1: April to June 2019

CASES	STATUS	COMMENT
17	Received	Applications received in Q1.
5	Activated	These are cases where all the relevant documentation has been received to allow activation ready for review.
10	Reviewed	These are cases that have been reviewed by the Nurse Assessor. Chronology and Needs Assessment completed. Outcome determined and sent to Solicitor / Claimant.

6	Closed	Cases that have been closed due to either claimant not wanting to pursue or no relevant documentation received within the 5-month timescale.
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There are no HB breaches; all HB cases have been reviewed and completed within the recommended 6-month timeframe. There are currently 76 retrospective claims on the database including the 56 cases returned from Powys.

The estimated time for completing the Powys reviews was thought to be in excess of 12 months, however, the team has made significant progress since April. All the Powys cases have been reviewed and now moved to the negotiation, payment or Independent Panel stage of the process.

### **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.

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.

The judicial review impacts all FNC placements completed by PCS DU Complex Care team and MHL D Complex care team.

### **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 is 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. Regional

Contract work is ongoing which includes consultation with providers and Care Forum Wales.

### **Escalating Concerns**

During Quarter 1- one care home in Swansea was under Escalating Concerns, this care home is likely to close within the near future due to financial concerns. Joint contingency plans are in place, a decision will be made by the provider shortly.

### **Sustainability in the Care Home Sector**

Over the last few years the rising number of registrant vacancies experienced in the NHS has been mirrored in the Care Home Sector, this is not an exclusive issue for the SBUHB and is replicated across Wales.

The impact of the paucity of registrants available to the care home sector has meant on occasions that a provider who has previously offered nursing beds has had no choice but to de register those specific categories, over the last two years this has led to a reduction of 37 nursing care beds across the SBHB region.

The bed pool for nursing and dual registered care homes in SBUHB is circa 1,211. The Sector are a fundamental element of the patient flow system and to all intents and purposes they are providing what were previously deemed “long stay elderly care beds” and more usually dementia beds.

With a potential shrinking of nursing bed capacity the impact on the hospitals from a delay perspective could be significant. In addition individuals who are deteriorating at home may default into hospital if the capacity in the private diminishes.

The issue has been escalated to WG and there are plans to review this at an all Wales level.

Options for stabilising the situation may mean a different approach for some care homes with regards to registrant numbers and on site availability of registered nurses.

### **Appeals and Disputes**

As from September 2019 Cathy Dowling, Deputy Director of Nursing and Patient Experience will be taking the lead to explore the future funding arrangements for LAC and how this will be managed in light of the IPC Western Bay Report, Children and Young People with Complex Needs, a Multi- Agency Framework that was devised following two workshops last year. It has been agreed that JC will lead for PCS and Singleton Unit work around the implementation of the new framework with the Local Authorities. Details to be confirmed.

<b>NUMBER OF PATIENTS IN DISPUTE</b>	<b>REASON FOR DISPUTE</b>	<b>ACTIONS TO RESOLVE</b>	<b>ADDITIONAL INFORMATION</b>
4	DST Meetings wherein there was an outcome that the patient had a Primary Health need (PHN) and therefore CHC eligible. The cases are in dispute as the CHC Team have not been able to ratify the decision of the MDT due to lack of supporting evidence.	The MDT has been tasked with providing the written clinical evidence so that the decision can be ratified. Progress is managed through monthly meetings between Service Manager and Team Leader of Swansea Community Learning Disability Team, members of the CHC Team and the Social Work Team Leaders for CCoS. When this information is received and scrutinised and PHN is established the HB accepts funding responsibility from the date of the DST Meeting.	Relates to delays in supporting information to ratify clinical decisions.
13	Cost increases for service users attending CCoS Day Services.	The significant cost increases have been scrutinised by the DU Senior Business Partner and a financial analysis with a suggested cost per unit has been returned to CCoS Principal Finance Partner. This is an ongoing negotiation.	The second and third disputes are collective and relate to cost increases for the HB.
9	The total or partial withdrawal of supported living grant by CCoS from service users in receipt of CHC funding by the HB or joint funding with CCoS. This is limited to a single provider who has reported this change to the HB. There has been no correspondence from CCoS regarding this change.	HB Finance Partner is liaising with the provider to clarify the additional costs to the HB	
4	Service users have been admitted to DGH from CCoS funded placements that have had discharges back to these placements delayed due to the insistence of CCoS that a DST Meeting is held prior to discharge.	In all of these cases the HB has taken over the funding on a temporary basis whilst the DST meeting can be arranged, in order to enable the service user to be discharged. 2 cases have subsequently been confirmed as having a Primary Health need and funding agreed by MH&LD Complex Case Panel	
1	One case in Cefn Coed Hospital waiting for high cost specialist placements.	The case has been reviewed and remains complex, therefore, requires a high cost placement.	Review undertaken.
20	20 Looked After Children's cases are being reviewed in order to determine level of health needs.	The Long Term Care Team are reviewing each case in order to determine the impact to the Health Board of the implementation of the proposed LAC Framework.	All cases under review meeting held with Swansea LA to discuss process and HB methodology.

#### 4. FINANCIAL IMPLICATIONS

The table below shows the CHC expenditure for the Swansea Bay University Health Board (SBU HB) for 2017/18 and 2018/19 and the forecast position for 2019/20 based on data to the end of M04.

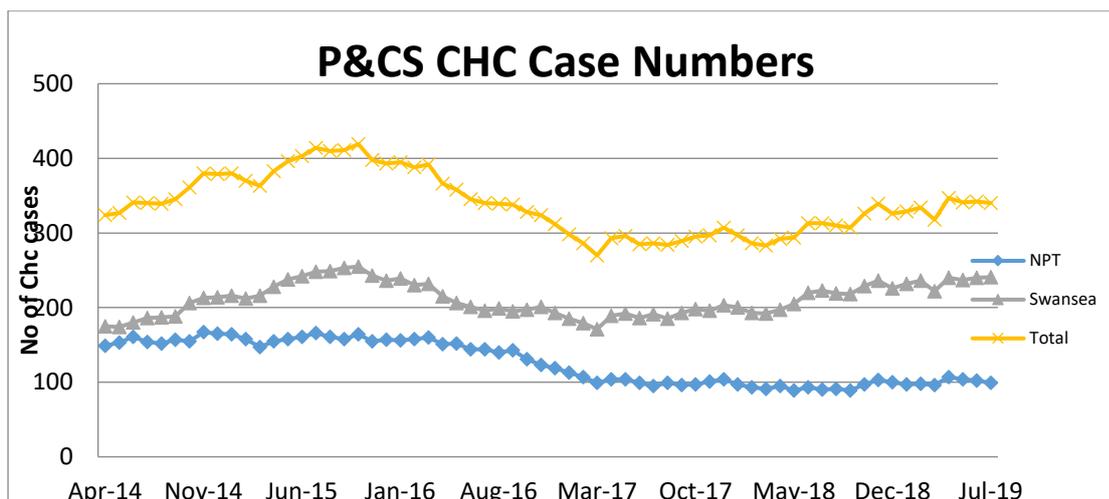
Category	Total 17/18 £m	Total 18/19 £m	Forecast 19/20 £m	Qtr1 Actual 19/20 £m
MH&LD CHC	20.70	23.01	24.06	5.87
P&CS CHC	15.67	17.36	19.09	4.73
P&CS FNC	7.28	7.60	7.46	1.85
SING Paeds	0.76	0.83	1.00	0.24
<b>Total</b>	<b>44.41</b>	<b>48.80</b>	<b>51.61</b>	<b>12.69</b>

Whilst FNC expenditure is forecast to remain at similar levels to 2018/19, there is a predicted increase in expenditure across P&CS, MH&LD and Paediatrics for CHC. This increase in expenditure is linked to:

- Increases in the FNC rate - PCS set the CHC rate at the FNC contribution plus the cost of a Residential bed in the local area. (£3.61 per package per week actioned at the end of 2018/19)
- Increased case numbers as shown in the graphs below.
- An increase in the number of more complex cases, which need higher cost care.
- Increased numbers of Fast Track patients whose needs cannot be met through core community services or agency services is also impacting on the and have to be funded through Local Authority In-house Domiciliary Care Services which have a variable rate.

#### Primary Care and Community

The P&CS Unit has previously delivered savings through implementing stricture and standardised processes. The downward trend in number of patients receiving general community CHC packages of care however, reversed in 2018/19 with the more appropriate placement of patients with EMI needs in the community having an impact to the Health Boards overall CHC budget position.



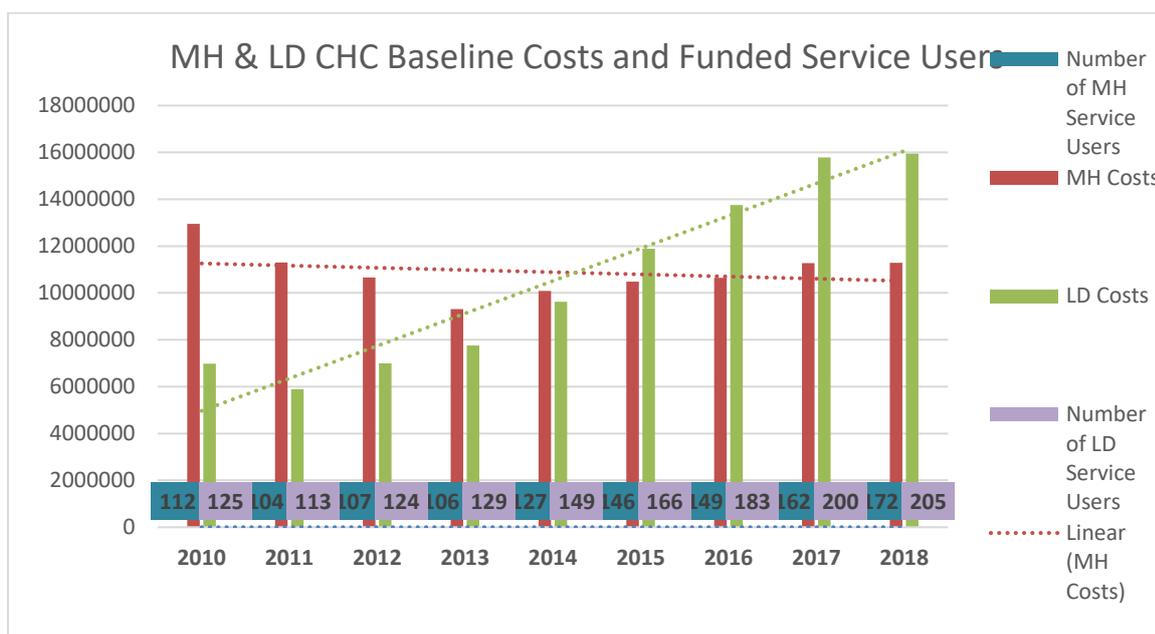
The graph shows, the reduction in case numbers and then the increase from the beginning of 2018. The increase in the number of CHC placements in total is due, however, to increased numbers within the Swansea area, whilst the number of CHC cases within the Neath Port Talbot area has remained more stable over the same period.

Package Cost	% of packages at each rate		
	2017/18	2018/19	Qtr 1 2019/20
Under 1K	74.1	73.6	73.4
£1-2K	20	19.3	18.5
Over £2k	5.9	7.1	8.1

During the same period there has also been an increase in the number of high cost packages of care as a percentage of the total number of packages. These include high cost placements or packages of care for conditions such as MND/MS/Huntington Chorea. The PCS Unit monitors the Finance Recovery Plan through the Unit Management Board, The Unit Finance, Performance and Business Meeting and is intern overseen by weekly Unit Financial review meetings, Monthly Recovery meetings and Quarterly Performance Meetings. A key part of the FRP is the redesigned plan which has been strengthened following the analysis of activity and Quarter 1 figures and contains four work streams.

### Mental Health and Learning Disabilities

The following graph demonstrates the failure to arrest the increases in growth of LD funded care in particular. This is in terms of both total costs and numbers of service users that are receiving funded care. There are increasing cost pressures in mental health commissioning also, with a marked increase in woman service users being funded to transfer to independent sector low secure and locked rehabilitation units.



The cost pressures for 2018-19 are demonstrated in the graph below, wherein the monthly overspend for funded care costs is running at £388k on average. This is unsustainable and places increasing pressure on clinical budgets to maintain financial targets.

As a reaction to sustained growth in the CHC (commissioning) spend the MH&LD Delivery Unit has reviewed the function of Commissioning Team scrutiny of funding applications.

A business case has been produced for the consideration of the Mental Health and Learning Disability Delivery Unit. The purpose of this business case is to establish the need to extend the current Adult Mental Health CHC team. It is recommended that this is achieved by making substantive appointments to meet capacity and operational demands of managing funded care in the Delivery Unit. The case also makes reference to governance mechanisms that need to be created and strengthened to manage the flow and capacity into funded care and service developments that will support funded care cost containment.

The Locality based Scrutiny Panels have been introduced to:-

- Consider local alternatives to high cost funded care packages.
- Enhance quality of funding applications.
- To influence and support repatriation of individuals from Independent Hospital provision, both within and outside of Wales.

- Allow the MH&LD Commissioning Team to refocus time and resource on quality assurance reviews of patients in funded care.

As a consequence monthly Locality Complex Case Panels have been introduced and preparations are underway to disaggregate CHC budgets accordingly.

A monthly MH&LD Governance group for CHC/Commissioning chaired by the Service Director is being set up to have enhanced oversight over operation and expenditure.

As a result of the boundary changes the MH&LD Commissioning Team will be reduced by two full time Case managers who will transfer over to Cwm Taf Heath Board in April 2019.

#### MH&LD Improvement Plan

- a) Repatriation of rehabilitation patients to the Gwelfor Unit at Cefn Coed. There was under capacity in Gwelfor relating to women in the Unit so this has now been developed into a male only service. We have placed the remaining 2 women in external residential services and repatriated 6 expensive male placements.
- b) Modernisation of womens services. There are no low secure services for women. There is some unused capacity currently for men in Taith Newydd. Taith Newydd consists of 2 units and the plan is to find alternative placements for a number of the men and repatriate expensive female placements into one of the units and develop this unit for women.
- c) Implementation of locality scrutiny panel in additional to the joint complex case panels with the local authorities that were already in place. This puts some of the ownership of CHC out to locality with opportunity for challenge and identifying other internal solutions and provision.
- d) West Glamorgan review of cases, this is a right sizing review continued from 2018-19 but with additional resource from an ICF bid. This will enable the review of 40 MH cases and 40 LD cases. The cases for review have been agreed with the commissioning team.
- e) CHC Team development from I2S bid. The team will be strengthened to provide more integration with locality teams and additional capacity for review and right sizing.
- f) Transfer of new and existing patients to RSL placements. The Health Board is working collaboratively with the local authorities and there is a joint accommodation group. The first development is due in Neath port Talbot and there is capacity here to take HB patients. This is a level of care that is not currently available and will meet some unmet level of care.
- g) Containment of CHC inflation. There is inflation at 3% included in the Unit forecast but the starting point for agreeing uplifts with providers for 2019-20 has been set at 2%

Planned savings as mitigating actions as follows;

	£	Risk
Gwelfor Repatriation	210,000	Green
Modernisation of Womens Services	100,000	Yellow
Implementation of Locality Scrutiny Panels	200,000	Yellow
Western Bay review of complex cases	200,000	Green
CHC Team development from I2S	450,000	Yellow
Transfer of patients to new RSL placements	50,000	Yellow
Containment of CHC inflation	100,000	Green
<b>Total</b>	<b>1,310,000</b>	

## 5. RECOMMENDATION

Members are asked to:

- Note the update on the Supreme Court Judgement for FNC rates
- Note the impact resulting from the closure of the Powys All Wales Retrospective Review Team in March 2019.
- Note the impact of the closure of mental beds on PC&CS
- Note issues in relation to LAC funding.
- Note the change in commissioning arrangements for MH&LD.

<b>Governance and Assurance</b>		
<b>Link to Enabling Objectives</b> <i>(please choose)</i>	<b>Supporting better health and wellbeing by actively promoting and empowering people to live well in resilient communities</b>	
	Partnerships for Improving Health and Wellbeing	<input checked="" type="checkbox"/>
	Co-Production and Health Literacy	<input type="checkbox"/>
	Digitally Enabled Health and Wellbeing	<input checked="" type="checkbox"/>
	<b>Deliver better care through excellent health and care services achieving the outcomes that matter most to people</b>	
	Best Value Outcomes and High Quality Care	<input checked="" type="checkbox"/>
	Partnerships for Care	<input checked="" type="checkbox"/>
	Excellent Staff	<input type="checkbox"/>
	Digitally Enabled Care	<input checked="" type="checkbox"/>
	Outstanding Research, Innovation, Education and Learning	<input type="checkbox"/>
<b>Health and Care Standards</b>		
<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"/>
<b>Quality, Safety and Patient Experience</b>		
<b>The Health Board has a responsibility to ensure that its duty of care extends to NHS provision</b>		
<b>Financial Implications</b>		
MH&LD and PCS delivery Units have identified a financial risk in 2018/19 and also in 2019/20 and have implemented improvement plans.		
<b>Legal Implications (including equality and diversity assessment)</b>		
The Health Board is required to provide NHS funded care in line with agreed procedures. The sustainability of the independent sector, quality and governance concerns and the financial position have been identified as potential risk.		
<b>Staffing Implications</b>		
There are staffing issues in the private care sector which require a revised approach to ensure the sector remains positive and suitable for continued commissioning of NHS funded care.		
<b>Long Term Implications (including the impact of the Well-being of Future Generations (Wales) Act 2015)</b>		
The paper outlines the importance of collaborative working with the local authorities and the independent care sector to ensure it remains a positive place to work and receive care for the future.		
<b>Report History</b>		
<b>Appendices</b>	None	