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WALES

Bwrdd Iechyd Prifysgol  
Bae Abertawe  
Swansea Bay University  
Health Board



<b>Meeting Date</b>	<b>19th January 2023</b>	<b>Agenda Item</b>	<b>4.3</b>
<b>Report Title</b>	<b>Losses and Special Payments Update</b>		
<b>Report Author</b>	Andrew Biston, Assistant Director of Finance (Accounting & Governance)		
<b>Report Sponsor</b>	Darren Griffiths, Director of Finance and Performance		
<b>Presented by</b>	Andrew Biston, Assistant Director of Finance ( Accounting & Governance)		
<b>Freedom of Information</b>	Open		
<b>Purpose of the Report</b>	To provide the Audit Committee with an update on losses and special payments for the period 1st August 2022 to 30 <sup>th</sup> November 2022 and to provide a comparison to the losses and special payments made in the period 1st August 2021 to 30 <sup>th</sup> November 2021.		
<b>Key Issues</b>	<p>The losses and special payments recorded during the period 1<sup>st</sup> August 2022 to 30<sup>th</sup> November 2022 totalled £2,497,061 of which £2,017,444 is recoverable from the Welsh Risk Pool, meaning that the actual loss to the Health Board in the period totals £479,617.</p> <p>Of the losses and special payments made in the period a total of £303,862 related to cases pre 31<sup>st</sup> March 2019 for locations which transferred to Cwm Taf Morgannwg Health Board on 1<sup>st</sup> April 2019 of which the actual loss after recoveries are taken into account was £35,817.</p> <p>After the recoveries from Welsh Risk Pool are taken into account, there is a net loss of £1,126,964 to the Health Board for the period 1<sup>st</sup> August 2022 to 30<sup>th</sup> November 2022 which is lower than the net loss of £1,408,710 for the comparable period 1<sup>st</sup> August to 30<sup>th</sup> November 2021.</p> <p>As in previous years the Welsh Risk Pool risk sharing agreement has been invoked for 2022/23 with the health board's contribution amounting to £4.092m.</p>		
<b>Specific Action Required</b> <i>(please ✓ one only)</i>	<b>Information</b>	<b>Discussion</b>	<b>Assurance</b>
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<b>Recommendations</b>	<p>Members are asked to:</p> <ul style="list-style-type: none"> <li>• <b>Note</b> the losses and special payments made in the period which will need to be reported to the Board</li> </ul>		

## LOSSES AND SPECIAL PAYMENTS UPDATE

### 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 1<sup>st</sup> August 2022 to 30<sup>th</sup> November 2022 and a comparison to the period 1<sup>st</sup> August 2021 to 30<sup>th</sup> November 2021.

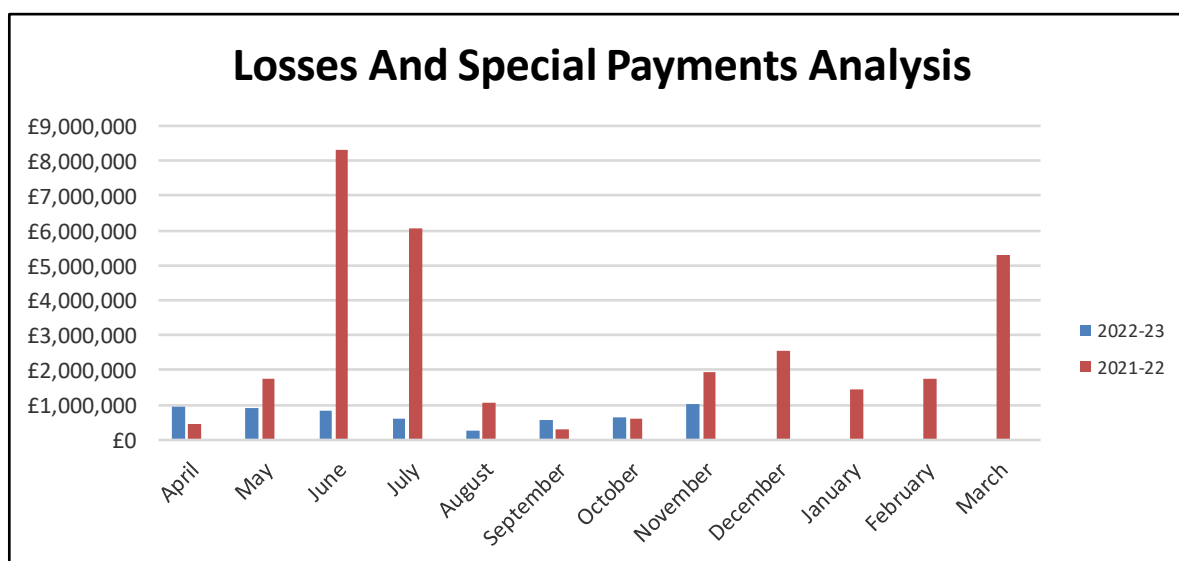
### 2. BACKGROUND

- 2.1. The losses and special payments recorded during the period totalled £2,497,061, with the majority of this comprising payments in respect of Clinical Negligence, Redress and Personal Injury.
- 2.2. These losses are detailed in **Appendices A to I** and summarised below:

Loss Type	Value £
Obsolete Drug Stock	1,760
Ex Gratia Payments	8,746
Bad Debts Written Off	19,750
Redress Payments	103,571
GP Indemnity Payments	8,900
Clinical Negligence - Defence Fees	303,058
Clinical Negligence – Claimant Costs	1,234,379
Clinical Negligence – Damages	668,644
Clinical Negligence – CRU Payments	51,662
Personal Injury – Defence Fees	39,427
Personal Injury – Claimant Costs	105,701
Personal Injury - Damages	-62,411
Personal Injury CRU Payments	13,874
<b>Total</b>	<b>2,497,061</b>

- 2.3. The gross loss of £2,497,061 for the period 1<sup>st</sup> August 2022 to 30<sup>th</sup> November 2022 compares to a gross loss of £3,939,083 for the period 1<sup>st</sup> August 2021 to

30<sup>th</sup> November 2021. The chart below analyses these losses and special payments on a month by month basis.



- 2.4. The graph above confirms that there will be variations in payments across the year with there being no discernible trend to when cases are settled. The high value of payments during the months of April 2021 and July 2021 and March 2022 was mainly due to three large settlement payments over £2m amounting to £12,334,664 as detailed in the table below. For the period April to November 2022 there have been no settlements above £500,000 in value.

Case Reference	Location	Specialty	Amount (£)
10RYMMN0212	Princess of Wales Hospital	Obstetrics	5,084,474
15RYMMN0151	Singleton Hospital	Obstetrics	4,914,339
15RYMMN0040	Morrison Hospital	Neurology	2,335,851

- 2.5. The Committee is reminded that 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 31<sup>st</sup> 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 2022 to November 2022, 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** to this report.

Loss Type	Total (£)	Swansea Bay Locations (£)	Cwm Taf Morgannwg Locations (£)
Clinical Negligence	2,257,742	1,955,371	302,371

Personal Injury	96,591	89,178	7,413
Redress	103,571	109,493	-5,922
<b>Total</b>	<b>2,457,904</b>	<b>2,154,042</b>	<b>303,862</b>

As at 30th November 2022, the number of open cases for which the health board has a provision in its accounts in these 3 categories analysed by location is as follows:

Type of claim	Open Cases Swansea Bay Locations	Open cases Cwm Taf Morgannwg Locations
Clinical Negligence	223	41
Personal injury	41	1
Redress	81	4

### 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 do 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.
- 4.2. For each of the last 3 financial years, the risk sharing agreement has been invoked due to the value of settlements exceeding the amount of the top sliced funding. The risk sharing agreement has again been invoked for 2022/23 and the Swansea Bay share of the additional costs for 2022/23 amounts to £4.092m, this amount to be deducted from the health board's resource allocation.
- 4.3. 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.

- 4.4. Of the £2,497,061 paid out in the period 1<sup>st</sup> August to 30<sup>th</sup> November 2022, £1,926,346 in respect of clinical negligence and personal injury claims and £91,098 in respect of redress claims and GP Indemnity Payments is recoverable from the Welsh Risk Pool. Taking this recovery into account, the actual loss to the Health Board in the period totals £479,617.

Losses & Special Payments	Amount £
Clinical Negligence	2,257,742
Personal Injury	96,591
Redress Payments	103,571
GP Indemnity	8,900
Obsolete Drug Stock	1,760
Ex Gratia Payments	8,746
Bad Debts Written Off	19,750
<b>Sub Total</b>	<b>2,497,061</b>
Less WRP Recovery	-1,926,346
Less Redress and GMPI Payments Reimbursed by WRP	-91,098
<b>Health Board Losses in the Period</b>	<b>479,617</b>

- 4.5. Analysing this by location, the net cost to the health board split between those cases which are Swansea Bay cases and those pre 31<sup>st</sup> 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 £35,817 relates to cases prior to 31<sup>st</sup> March 2019 for locations which transferred to Cwm Taf Morgannwg Health Board on 1<sup>st</sup> April 2019.

Loss Type	Total (£)	Swansea Bay Locations (£)	Cwm Taf Morgannwg Locations (£)
Clinical Negligence	313,325	279,262	34,063
Personal Injury	114,662	112,908	1,754
Redress	21,373	21,373	0
Other Losses	30,256	30,256	0
<b>Total</b>	<b>479,617</b>	<b>443,800</b>	<b>35,817</b>

- 4.6. After the recoveries from Welsh Risk Pool are taken into account, the net loss totals £1,126,964 for the period 1<sup>st</sup> April to 30<sup>th</sup> November 2022 as compared to £1,408,710 for the period 1<sup>st</sup> April to 30<sup>th</sup> November 2021.

## 5. RECOMMENDATIONS

Members are asked to:

- **Note** the losses and special payments made in the period which will need to be reported to the Board



Governance and Assurance		
<b>Link to Enabling Objectives</b> (please choose)	<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 type="checkbox"/>
	Co-Production and Health Literacy	<input type="checkbox"/>
	Digitally Enabled Health and Wellbeing	<input 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 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		
(please choose)	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		
There are no direct staffing implications associated with this report.		

<b>Long Term Implications (including the impact of the Well-being of Future Generations (Wales) Act 2015)</b>
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.
<b>Report History</b>
<b>Appendices</b>

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.

<b>Report History</b>
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This is a regular report to the Audit Committee in line with the agreed work plan.
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<b>Appendices</b>
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Appendices A to I provide the details of all losses and special payments made in the period 1 <sup>st</sup> August 2022 to 30 <sup>th</sup> November 2022.
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