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Bwrdd Iechyd Prifysgol
Bae Abertawe
Swansea Bay University
Health Board



Meeting Date	19 September 2019	Agenda Item	5.2
Report Title	Losses and Special Payments Update		
Report Author	Andrew Biston, Head of Accounting and Governance		
Report Sponsor	Lynne Hamilton, Director of Finance		
Presented by	Andrew Biston, Head of Accounting and 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 April 2019 to 31 st July 2019 and provide an analysis of the gross losses for 1st April 2019 to 31 st July 2019 compared to the period 1st April 2018 to 31 st July 2018.		
Key Issues	<p>The losses and special payments recorded during the period 1st April to 31st July 2019 totalled £7,185,990 of which £6,476,764 is recoverable from the Welsh Risk Pool. Taking this recovery into account, the actual loss to the Health Board in the period totals £709,226</p> <p>After the recoveries from Welsh Risk Pool are taken into account, the net loss of £709,226 to the Health Board for the period 1st April 2019 to 31st July 2019 is higher than the net loss of £541,219 for the comparable period 1st April 2018 to 31st July 2018.</p>		
Specific Action Required <i>(please choose one only)</i>	Information	Discussion	Assurance
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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

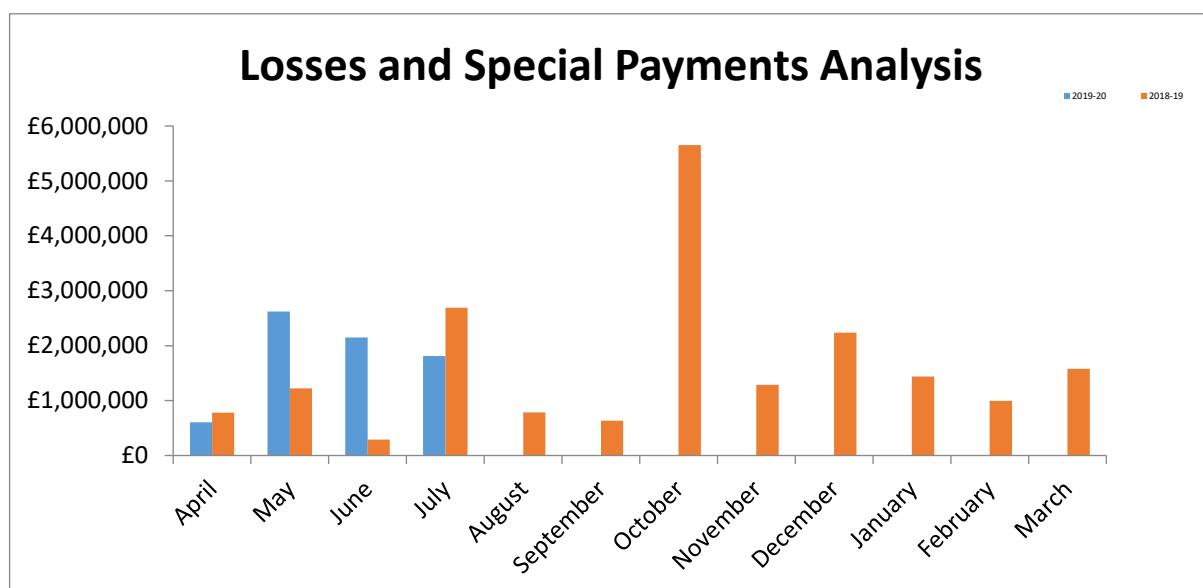
- 1.1. The Audit Committee handbook recommends that losses and special payments made by the Health Board be reported to the Audit Committee. This report addresses that requirement by providing an update on losses and special payments, for the period 1st April 2019 to 31st July 2019 and an analysis of the gross losses for 1st April 2019 to 31st July 2019 compared to the period 1st April 2018 to 31st July 2018.

2. BACKGROUND

- 2.1. The losses and special payments recorded during the period totalled £7,185,990, with the most significant payments relating to Clinical Negligence (£6,793,268), Redress (£252,026) and personal Injury (£116,334). The remaining losses of £24,362 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, B, and C** summarised in the table below:

Loss Type	Value £
Obsolete Drug Stock	10,567
Ex Gratia Payments	5,390
Bad Debt Written Off	8,155
Compensation Payments	250
Redress Payments	252,026
Clinical Negligence - Defence Fees	233,520
Clinical Negligence – Claimant Costs	932,445
Clinical Negligence – Damages	5,532,431
Clinical Negligence – CRU Payments	94,872
Personal Injury – Defence Fees	15,568
Personal Injury – Claimant Costs	34,671
Personal Injury - Damages	56,996
Personal Injury – CRU Payments	9,099
Total	7,185,990

- 2.3. The gross loss of £7,185,990 for the period 1st April 2019 to 31st July 2019 compares to a figure of £4,990,015 for the period 1st April 2018 to 31st July 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 increase in payments in the period April to July this financial year compared to the same period in the last financial year is due to three large value settlements in year. The table below details all settlements in the period over £500,000 in value.

Case Reference	Location	Speciality	Amount Paid (£)
11RYMMN0156	Morrison	General Surgery	1,828,668
17RYMMN0006	Singleton	Ophthalmology	1,715,998
15RYMMN0151	Singleton	Obs & Gynae	1,035,000
Total			4,579,666

- 2.5. It should be noted 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 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.

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. To date there has been no requirement to invoke this agreement.
- 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 will note that an additional Appendix has now been included within the report relating to redress cases following the transfer of the reimbursement of these claims from Welsh Government to Welsh Risk Pool as part of Legal and Risk Services and the change in the accounting treatment of redress payments from a cash basis to an accruals basis implemented in the last quarter of the 2018/19 financial year. This has resulted 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 resource implications for the claims management and finance teams.
- 4.4. In addition with effect from 1st April, 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 £7,185,990 paid out in the period 1st April 2019 to 31st July 2019, £6,268,898 in respect of clinical negligence and personal injury claims and £207,866 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 £709,226, as summarised in the table below:

Losses & Special Payments	Amount £
Clinical Negligence	6,793,268
Personal Injury	116,334
Obsolete Drug Stock	10,567
Ex Gratia Payments	5,390
Bad Debt Written Off	8,155
Compensation Payments	250
Redress Payments	252,026
Sub Total	7,185,990
Less WRP Recovery	-6,268,898
Less Redress Payments Reimbursed by WRP	-207,866
Health Board Losses in the Period	709,226

- 4.6. After the recoveries from Welsh Risk Pool are taken into account, the net loss totals £709,226 for the period 1st April 2019 to 31st July 2019 and £541,219 for the period 1st April 2018 to 31st July 2018.

5. RECOMMENDATIONS

- 5.1. The Audit Committee is asked to note the losses and special payments in the period of £7,185,990, of which £6,476,764 will be recovered from the Welsh Risk Pool (£6,268,898 in respect of clinical negligence and £207,866 in respect of redress), leaving an actual loss to the Health Board in the period of £709,226.
- 5.2. 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 (please choose)	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 type="checkbox"/>
	Partnerships for Care	<input type="checkbox"/>
	Excellent Staff	<input 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 type="checkbox"/>
	Safe Care	<input type="checkbox"/>
	Effective Care	<input type="checkbox"/>
	Dignified Care	<input type="checkbox"/>
	Timely Care	<input type="checkbox"/>
	Individual Care	<input type="checkbox"/>
	Staff and Resources	<input type="checkbox"/>
Quality, Safety and Patient Experience		
<p>The requirement to make losses payments occurs where there have been losses to the health board such as when drugs expire or when payments are made to external bodies/persons for loss, harm or damage caused to them. In particular clinical negligence, personal injury and redress payments are due to failures within the quality, safety and patient experience. The issues arising which have caused such losses are discussed within the Quality and Safety Committee.</p>		
Financial Implications		
<p>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. To date there has been no requirement to invoke this agreement.</p> <p>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. This amounts to £709,226 in the period April to July 2019.</p>		
Legal Implications (including equality and diversity assessment)		
<p>Clinical Negligence and Personal Injury settlements included within the payments reported in this paper are made under legal obligation. Other losses and ex-gratia payments are made in accordance with the applicable Welsh Health Circular, the</p>		

Welsh Government Losses and Special Payments Manual and Health Board standing Financial Instructions.

Staffing Implications

There are no staffing implications associated with this report.

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 of losses is the requirement to ensure that incidents which cause harm/loss are reduced, under the prevention element which aims to prevent problems occurring or getting worse and to help the health board as a public body meet their objectives by doing no harm.

Report History

The Losses Report is reported to every other Audit Committee, the previous report being in May 2019.

Appendices

Appendices A, B and C provide the detail of all losses payments made in the period April to July 2019.