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Bwrdd Iechyd Prifysgol  
Bae Abertawe  
Swansea Bay University  
Health Board



Meeting Date	18 June 2019	Agenda Item	5.3	
Report Title	Continuing NHS Healthcare Quarter 4 Report: January – March 2019			
Report Authors	Jason Crowl (Unit Nurse Director PCS), Diane Fletcher (Head of Long Term Care, PCS), Mike Sullivan (Head of Long term Care MHL), Nicola Lewis (Head of Children’s CHC)			
Report Sponsor	Gareth Howells Executive Nurse Director			
Presented by	Jason Crowl (Unit Nurse Director PCS)			
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	Management and performance of CHC and FNC.  Retrospective CHC Claims and the implications of the Powys All Wales Retrospective Review Team closing in March 2019.  Actions taken to date in relation to the Supreme Court Judgement for future and backdated FNC rates.  Escalating Concerns.  Planned closure of mental health beds, impact on the care home sector.			
Specific Action Required (please choose one only)	Information	Discussion	Assurance	Approval
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Recommendations	Members are asked to:			

	<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>
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## Continuing NHS Health Care Quarter 4: January - March 2019

### 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

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.

### 3. GOVERNANCE AND RISK ISSUES

#### Retrospective Claims

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 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 Q4: January to March 2019

CASES	STATUS	COMMENT
13	Received	Applications received in Q4.
8	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.
1	Closed	Cases that have been closed due to either claimant not wanting to pursue or no relevant documentation received within the 5-month timescale.

There are no HB breaches; all cases have been reviewed and completed within the recommended 6-month timeframe. There are currently 76 retrospective claims on the database including those returned from Powys.

## **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.

## **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 4 one care home in Swansea came out of Escalating Concerns. One care home in Neath Port Talbot remains in Escalating Concerns. There is currently a suspension on nursing placements which should be lifted within the next few weeks.

## **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.

## **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 reporting purposes the Powys breaches will be reported separately to the HB cases where there are no breaches to date.

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

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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.

Both MHLD and PCS Delivery Units have agreed to meet to discuss developing joint proposals for the care home sustainability.

## Continuing Health Care Disputes

CHC disputes 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. The current CHC Dispute Resolution Policy has not been updated in anticipation of the new CHC framework. Due to the delay in the new framework, the dispute policy requires urgent review.

NUMBER OF PATIENTS IN DISPUTE	REASON FOR DISPUTE	ACTIONS TO RESOLVE	ADDITIONAL INFORMATION
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.

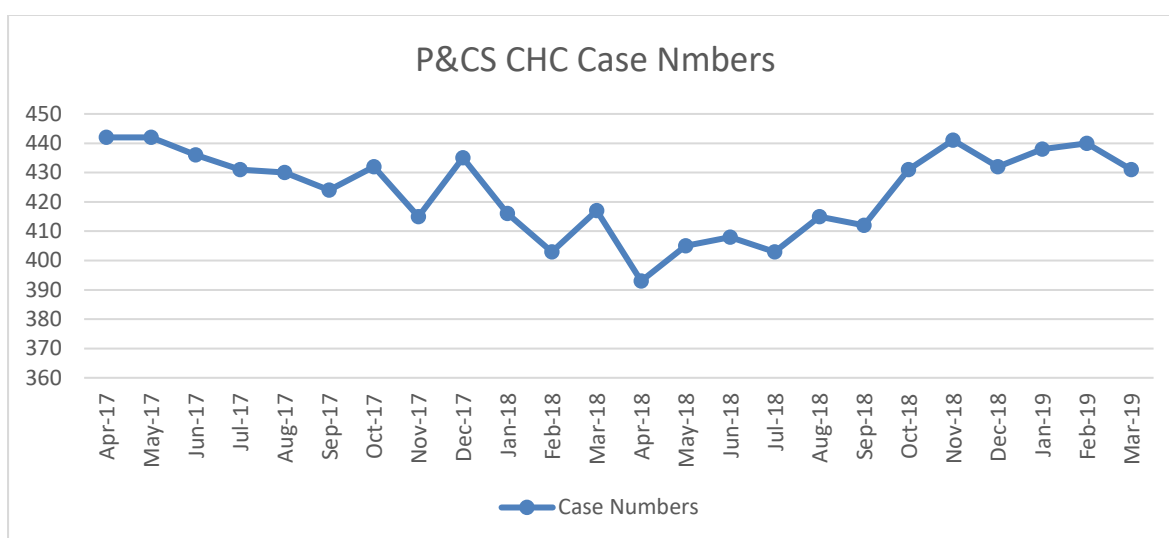
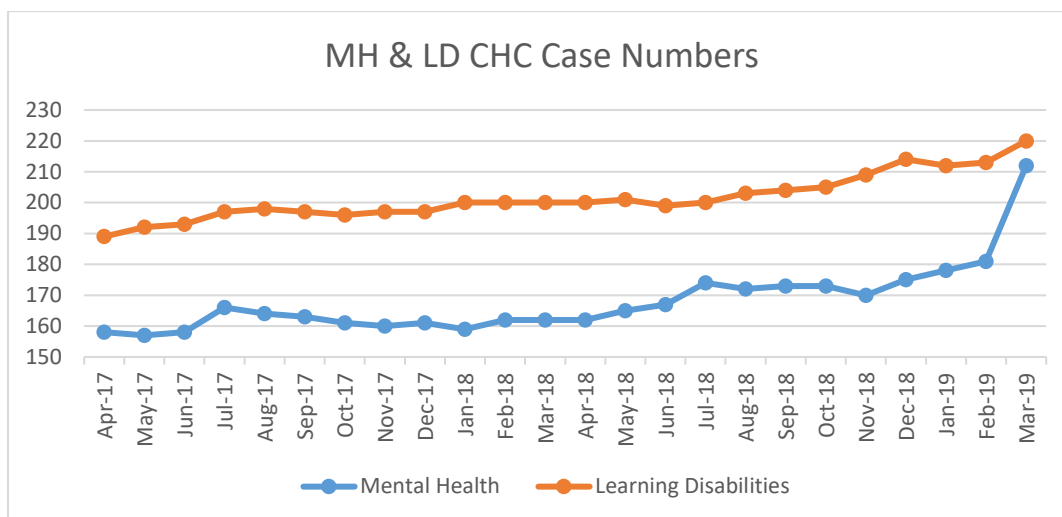
Unit Nurse Director for PCS DU will be taking the lead to explore the future funding arrangements for LAC and how this will be managed in light of the IPC Western Bay Report, Children and Young People with Complex Needs, a Multi- Agency Framework that was devised following two workshops last year. It 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.

#### 4. FINANCIAL IMPLICATIONS

##### Number of CHC Cases

Category	Total 2017/18 £m	Qtr 1 2018/19 £m	Qtr 2 2018/19 £m	Qtr 3 2018/19 £m	Qtr 4 2018/19 £m	Total 2018/19 £m	Forecast 2019/20 £m
MH&LD CHC	27.1	6.6	6.9	7.2	8.7	29.4	31.8
P&CS CHC	20.3	4.9	5.5	5.8	5.4	21.6	23.8
FNC	9.1	2.4	2.4	2.3	2.6	9.7	10.1
Paeds	1.2	0.3	0.3	0.3	0.3	1.2	1.2
Total	57.7	14.2	15.1	15.6	17.0	61.9	66.9

There has been an increase in the number of CHC cases in Q4 for MH and LD services. The minimal number of discharges from generic care home settings can be attributed to several factors. The minimal number of discharges from the care home setting throughout the winter months, improved in reach services to care homes and public health initiatives such as the flu campaign. The work being undertaken in relation to the prevention of falls has also made an impact. These influencing factors are reflected in the minimal number of care home vacancies across the region.



The downward trend in number of patients receiving general community CHC packages of care in recent years has reversed in 2018/19 and the more appropriate placement of patients with EMI needs in the community creates an impact to Health Boards overall CHC budget position. As more patients receive a greater proportion of their care in the community, the overall CHC budget will increase.

Weekly rate increases were applied in quarter two in relation to 2018/19 CHC Uplift and FNC Judicial Review uplift for P&CS CHC. These were backdated to April and funded by the Health Board.

The impact of the increase in CHC case numbers in both MH & LD and P&CS can be seen in the 2018/19 forecast and the 2019/20 forecast. Many of these increased cases only have a part year effect in 2018/19 so even without any further increases in case numbers there is a significant increase in cost expected next year from the full year effect of current year case increases.

The Health Board is liable for additional backdated and ongoing costs in relation to the FNC Judicial Review. This is due to a further challenge on the historic FNC rate

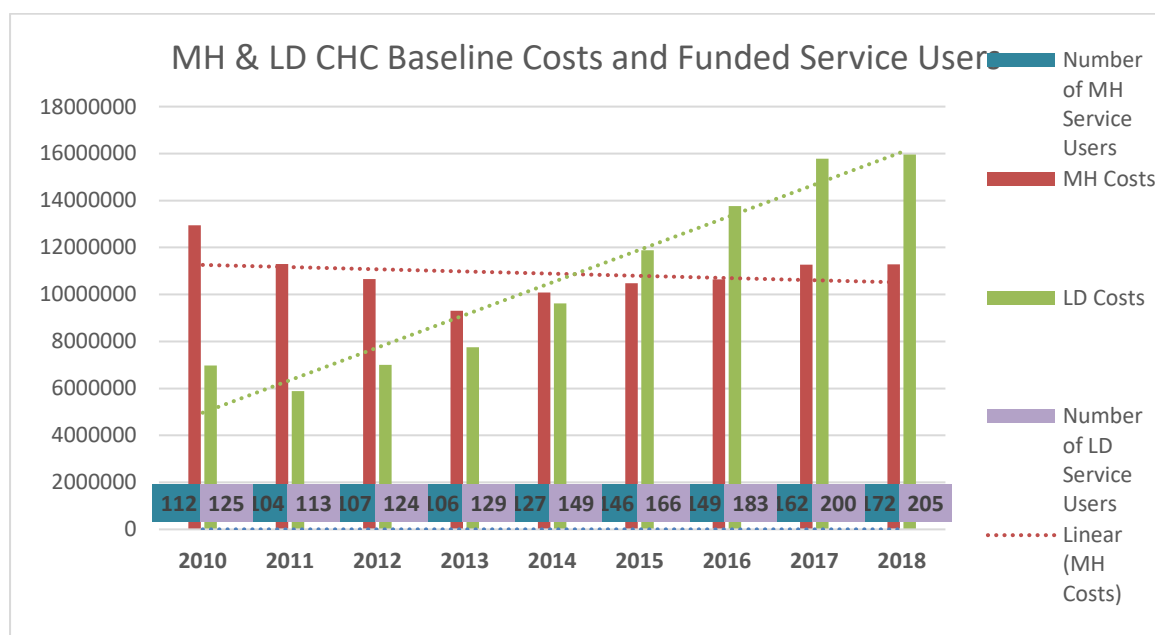
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rebasement exercise carried out in 2014 covering calculations by Laing & Buisson. This along with the agreed 2018/19 inflationary uplift results in an additional increase in the FNC rate of £3.61 per package per week. This will be actioned in quarter four.

## 5. Mental Health and Learning Disability.

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.

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 above, 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.

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.

As of December 2018 the responsibility has been devolved to Locality Teams.

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

## 6. Primary and Community Services

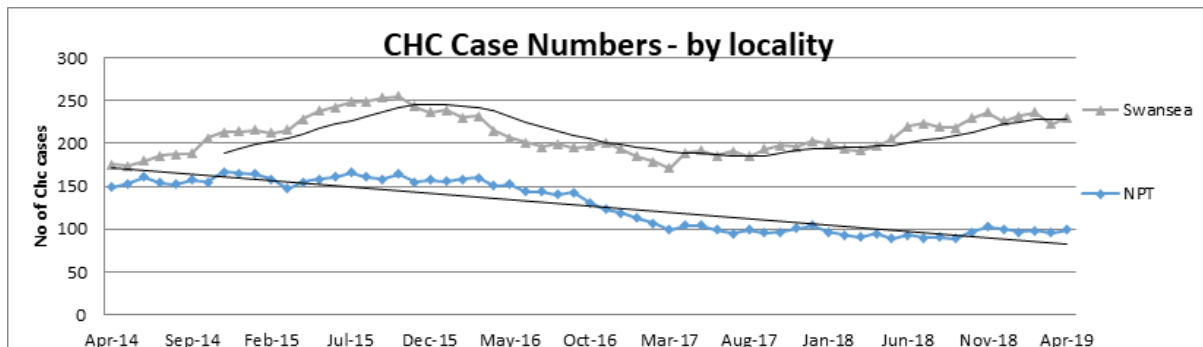
As a reaction to sustained growth in the CHC (commissioning) spend the PCS Delivery Unit has reviewed the function of Commissioning Team scrutiny of funding applications.

### Financial Forecast 2019/20 (Q3 Finance Forward Look)

N o	Issue	Risk	Description	Opportunity savings £000	Risk (worse case)	Date last review	Key decision point	Risk owner	Likelihood of crystallisation (1 low, 9 Crystallise)
5	FNC Judicial Review	Exposed	Impact of pay award on 2018/19 FNC uplift, additional £2.50 from L&B calculation potential knock on impact to CHC		£1,201	March 2019	Await outcome of further legal proceedings	UND	3
6	CHC case numbers and costs variability	Exposed	CHC costs have been on a downward trend and has reversed	£-250	£250	March 2019	Ongoing monitoring of case numbers and case cost	UND	3
7	Impact of transfer of mental health patients to community placements	Exposed	£1.1m of new CHC cases associated with transfer of MH patients from NHS long stay to NHS Funded placements.		£1,100	March 2019	Ongoing monitoring and case cost	UND	3

Performance against the Q3 demonstrated a worse case position at outturn and reflects an increase in demand as shown in the CHC Case numbers (Swansea and NPT).

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## 2019/20 Forecast

£25,536,023	Forecast
£23,898,627	Budget
£1,637,396	Variance (overspend)
-£841,000	Additional funding to be allocated to budget
£400,000	Growth allocation
£1,992,792	Risk

## PCS Financial Improvement Plan

- 1) Review local scrutiny panels to ensure process followed across NPT and Swansea Panels is consistent.
- 2) CHC funding panel to review all existing CHC placement costs and Home packages to ensure they are right sized to meet needs within 6 months.
- 3) Reorganise CHC team following boundary change.
- 4) Review impacts associated with early supported discharge
- 5) 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%
- 6) Impact assess proposal for implementing Childrens CHC and LAC West Glamorgan Framework.
- 7) Review NHS Wales benchmarking
- 8) Scope benefits from the NPT Digital Hub model links between ACT and Dedicated Care homes for opportunities.

## 7. Children Continuing Care

- Scope of care packages from a workforce perspective were completed in for merger with Cwm Taff.

- WG review of 2012 guidance for continuing care for children and young people commenced 4.10.2018. Plans for completion Spring 2019, still awaiting draft to be shared for consultation.
- Issues continue with LAC placement funding, several meetings undertaken between children services and Swansea LA.
- Impact on professional working relationships following LA having training for continuing care from Luke Clements. His training is adult based, refers to NHS England Policy. This has been flagged to WG by the All Wales Children and Young People Continuing Care Steering Group.
- CCN service have begun to use digital documentation in line with Mobilisation, in the process of developing relevant documents, awaiting sign off of continuing care app from WCCIS. CCN Team have been involved in its development.

## 8. RECOMMENDATION

The Committee is asked to:

- **Note the update on the Supreme Court Judgement for FNC rates.**
- **Note the Health Board's Retrospective Claims team are able to manage the reimbursement of deceased self funders in house rather than contract out to the All Wales Powys Team, the cost for Powys to undertake this work is not known at this stage.**
- **Note the closure of the All Wales Retrospective Claims Team.**
- **Note the change in commissioning arrangements for MH&LD.**

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 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	