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Health Board



<b>Meeting Date</b>	<b>24 March 2020</b>	<b>Agenda Item</b>	<b>3.2</b>
<b>Report Title</b>	<b>Continuing NHS Healthcare Quarter 3 Report: October – December 2019</b>		
<b>Report Authors</b>	Tanya Spriggs, Interim Unit Nurse Director PCS, Diane Fletcher Interim Head of Long Term Care, PCS, Claire Morgan Head of Long Term Care MHL, Nicola Lewis Head of Children’s CHC.		
<b>Report Sponsor</b>	Gareth Howells Executive Nurse Director		
<b>Presented by</b>	Gareth Howells Executive Nurse Director		
<b>Freedom of Information</b>	Open		
<b>Purpose of the Report</b>	This report aims to provide an update on the Q3 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>Escalating Concerns.</p> <p>Planned closure of mental health beds, impact on PC&amp;CS and the care home sector.</p>		
<b>Specific Action Required (please choose one only)</b>	<b>Information</b>	<b>Discussion</b>	<b>Assurance</b>
	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<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 impact resulting from the closure of the Powys All Wales Retrospective Review Team in March 2019.</li><li>• <b>Note</b> the impact of the closure of mental beds on PC&amp;CS</li><li>• <b>Note</b> issues in relation to LAC funding.</li><li>• <b>Note</b> the change in commissioning arrangements for MH&amp;LD.</li></ul>
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# Continuing NHS Health Care Quarter 3: October - December 2019

## 1. INTRODUCTION

This report aims to provide an update on the Q3 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.

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 has ended, national workshops are planned for early spring 2020.

## 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 were 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.

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Health Board Retrospective Claims Activated and Reviewed in Q3: October to December 2019

CASES	STATUS	COMMENT
10	Received	Applications received in Q3.
7	Activated	These are cases where all the relevant documentation has been received to allow activation ready for review.
9	Reviewed	These are cases that have been reviewed by the Nurse Assessor. Chronology and Needs Assessment completed. Outcome determined and sent to Solicitor / Claimant.
9	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 HB cases have been reviewed and completed within the recommended 6-month timeframe. There are currently 14 retrospective claims on the database.

### 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 and 19. A proposal regarding backdating deceased self-funders is currently being prepared to consider options. SBUHB has 1,360 deceased FNC cases, the Retrospective Claims Team has the experience to manage these claims in house, however, to date the process has not been agreed by WG.

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## **Pooled Budget**

A pooled budget between health and social care for the provision of care to older people residing in care homes needed 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 3- one care home in Swansea was under Escalating Concerns. The main issues are around management, leadership and poor standards of nursing care resulting in skin integrity issues. Joint inter-agency monitoring plans are in place to support the provider. One care home is being closely monitored in the Neath Port Talbot area due to an incident relating to the poor standard of end of life care.

## **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 sector diminishes.

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

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.

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## 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.

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	
30	30 Looked After Children's cases are being reviewed in	The Long Term Care Team have reviewed a number of cases in order to determine	All cases under review meeting

	order to determine level of health needs.	the impact to the Health Board of the implementation of the proposed LAC Framework. Cathy Dowling is now leading on this work.	held with Swansea LA to discuss process and HB methodology.
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#### 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 quarter 2.

Category	2017-18	2018-19	2019-20			
	Total £m	Total £m	Qtr 1 £m	Qtr 2 £m	Total to Qtr 2 £m	Forecast for the Year £m
MHLD	20.70	23.01	5.87	6.13	12.00	24.10
PCS CHC	15.67	17.36	4.73	5.07	9.80	19.49
PCS FNC	7.28	7.60	1.85	1.89	3.74	7.38
Singleton Paediatrics	0.76	0.83	0.24	0.24	0.48	1.01
<b>Total</b>	<b>44.41</b>	<b>48.80</b>	<b>12.69</b>	<b>13.33</b>	<b>26.02</b>	<b>51.98</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 is also impacting on costs and have to be funded through Local Authority In-house Domiciliary Care Services which have a variable rate.

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There has now been All Wales agreement to the uplift to the FNC rate in 2019-20 and a Board paper is being taken to the November Board seeking approval for;

- Extending the IUM for a further 2 years to cover 19/20 and 20/21
- Approving the uplifts for 19/20 and also for 20/21

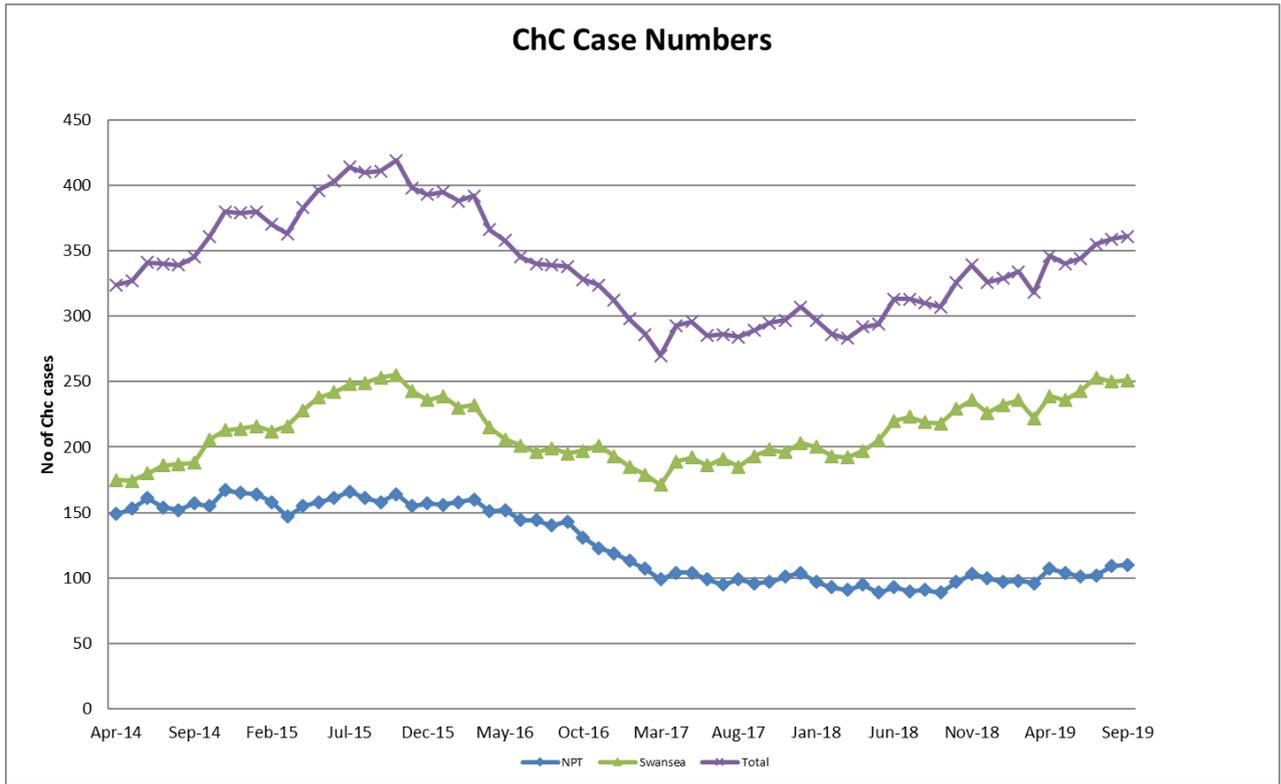
The rates are as set out below

Financial Year	RN component	Contenance component	HB component of FNC rate	Social care related to FNC and so funded by LA (0.385 hours)	Total FNC weekly rate (9.24 hours plus contenance component)
2014/15	£150.62	£11.00	£161.62	£6.55	£168.17
2015/16	£150.98	£11.00	£161.98	£6.56	£168.54
2016/17	£152.48	£11.00	£163.48	£6.63	£170.11
2017/18	£153.99	£11.29	£165.28	£6.70	£171.98
2018/19	£156.30	£11.57	£167.87	£6.80	£174.67
2019/20	£161.15	£11.82	£172.96	£7.01	£179.97
2020/21	£167.11	£12.06	£179.17	£7.27	£186.44

### Primary Care and Community

The P&CS Unit has previously delivered savings through implementing structure and standardised processes. There is a 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.

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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	Qtr 2 2019-20
Under 1K	74.1	73.6	73.4	74.8
£1-2K	20.0	19.3	18.5	17.5
Over £2k	5.9	7.1	8.1	7.7

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 and complex Mental Health needs.

## 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 and subsequently the approval of the Business case has allowed a new Service Manager to be appointed to

the MH & LD team with an additional 3.6 substantive Band 7 Case Managers currently in the process of being recruited. For the past two years 3 WTE Case Managers have been in seconded posts which has not provided a sense of stability or permanency to the team. A new and much needed post has also been approved for a contracts manager dedicated to MH & LD commissioning which will address the significant operational and financial risks currently associated with an absence of contracting and procurement specialist knowledge and experience.

The team has also recently benefitted from the allocation of ICF funding which has secured two Band Outcome Focused Assessors to work on a time limited basis up until March 2021. The focus will be on a number of high cost Learning Disability packages and ensure:

- Assessments are carried out in accordance to a specific methodology which is upheld through evidence based practice and a focus on progressive outcomes
- Individuals are supported in the most suitable form of accommodation that enables them to achieve maximum independence
- Assessments ensure individuals are commissioned packages of care which are proportionate to needs thus providing cost efficiencies
- Implementation of a performance framework to measure outcomes for individuals living in the community that receive support from externally commissioned providers, including case studies and surveys. This will no longer be required from April 2021 once the project becomes business as usual.

An internal scrutiny exercise of the processes and practice in place in regards to the CHC/commissioning process from point of referral to placement has also been undertaken by the new Service Manager and changes to improve governance and operations are beginning to be introduced. It is anticipated that within the next six months and with the establishment of substantive case managers such changes and improvement will be embedded.

The MH&LD Delivery Unit currently fund a total of 137 Mental Health and 178 Learning Disability independent care sector placements/packages. Welsh Government Audit requirements places an obligation on commissioners to undertake a QA commissioning review of each placement on an annual basis and that each new placement is initially reviewed within 3 months.

There has been a notable increase in new funding requests in comparison to Quarter 1. In total requests have increased from 35 (Q1), 55 (Q2) to 40 (Q3). The increase is across both Mental Health and Learning Disability services. Data is currently being collated to analyse and inform on trends and demand.

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### **Review of commissioned packages**

Quarter 3 has seen an increase in the number of QA reviews completed at 83, this has not included additional reviews undertaken in response to individual safeguarding and service provider concerns, e.g. escalating concerns/performance management.

### **Continuing Health Care applications**

A total of 6 DST's were received for scrutiny within the reporting period. Whilst there is no notable increase from previous Quarters, it is acknowledged that there are ongoing requests for a Decision Support Tool (DST) meeting to be undertaken particularly when patients with a Learning Disability are admitted to hospital. This is an approach advocated by CCoS which is noted to occur in other areas of CHC within the HB and may benefit from a cohesive approach to this common and shared issue.

A number of cases have been subject to the interagency dispute resolution process and work is planned to develop and agree a formal dispute resolution protocol with LA partners in line with the NHS CHC Framework requirements. This may benefit from a collaborative approach within the HB's CHC service areas in order to promote consistency across all areas.

### **Issues relating to commissioned placements**

During the reporting timescale there have been performance issues identified in a number of independent organisations.

Two Learning Disability Residential services operated by Orbis, namely Ty Seren (Swansea) and Ty Carreg (Vale) remain in 'escalating concerns' regarding issues relating to quality of care, staffing and environment issues. The Health Board are liaising with partner organisations and the provider in addressing the issues through the JIMP process and have been involved in individual service user reviews along with unannounced monitoring visits. Whilst improvements have been noted, longer term and sustained improvements are required to be demonstrated before the provider will be taken out of escalating concern.

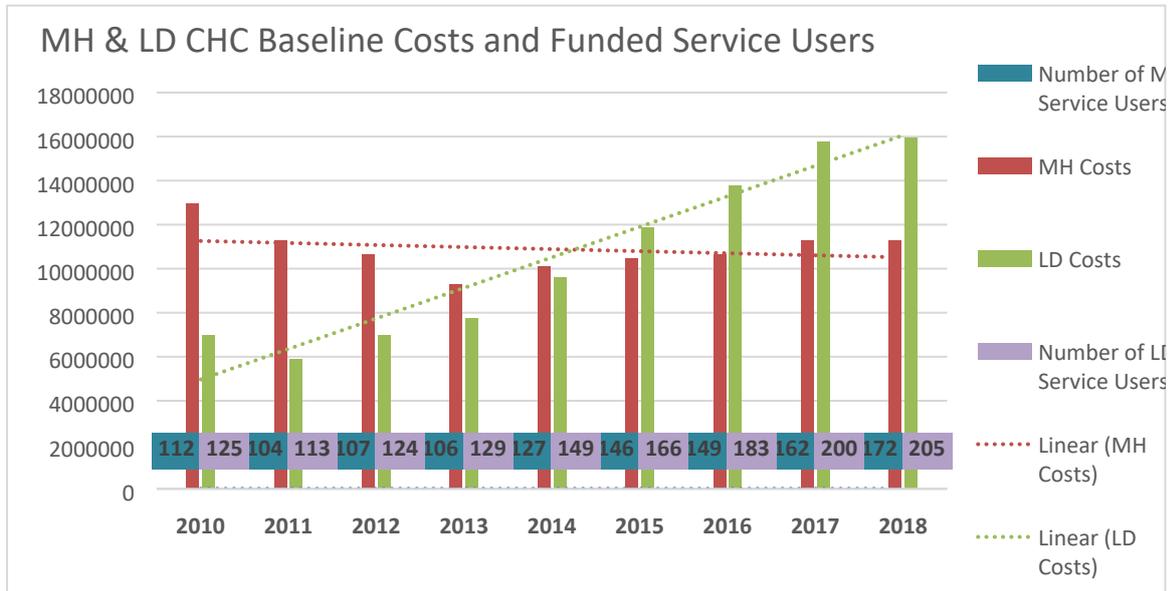
There have also been a number of issues in relation to Supported Living service providers both within NPT and CCoS which is being managed via Performance Management measures and the MH & LD Commissioning Team are working with partner organisations and the provider to address the issues in question.

### **MH&LD Improvement Plan**

- a) Transformation Programme for Learning Disability underway based on findings and recommendations of Specialist NHS Adult Learning Disabilities Needs Analysis (2017)
- b) Learning Disability outcome focused assessment programme for 2020/21 to help inform the development of new care models for those identified as having the potential to progress into a more independent support options and identify cost efficiency opportunities.

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- c) Implementation of locality scrutiny panel in addition to the joint complex case panels enabling opportunity for robust scrutiny and consideration of in house and alternate service provision.
- d) Development of new supported living accommodation schemes for MH & LD Complex Needs in collaboration with NPT and CCoS commencing 2020.



Planned savings as mitigating actions as follows;

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

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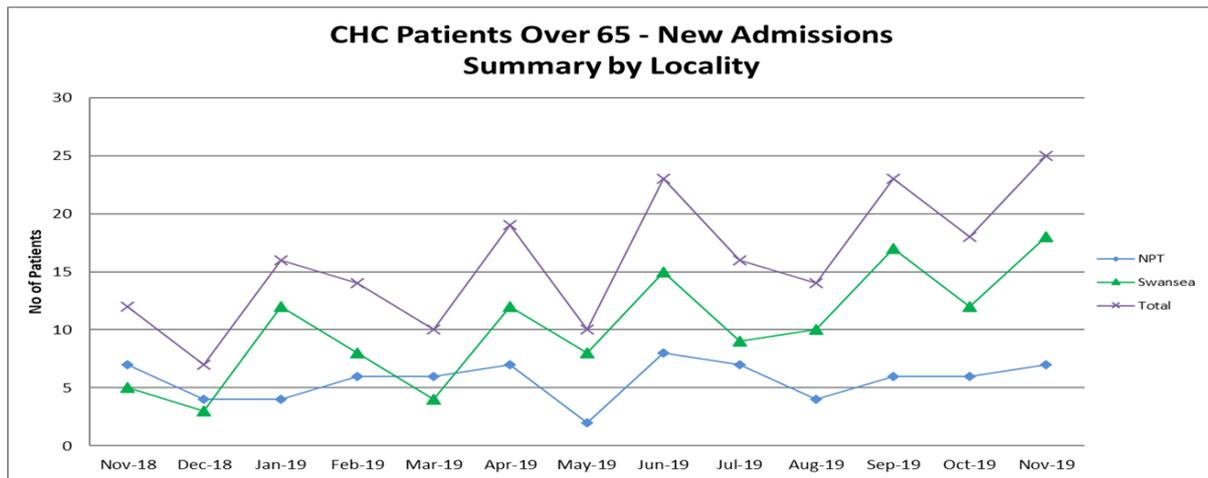
## 6. Primary and Community Services

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 (Finance Forward Look)

No	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

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### 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.

There has been further work been undertaken on the CHC Action Plan with action across the following four work streams;

- Analysis of the Problem
- Strengthening Scrutiny and Assurance
- Cost Containment
- Transformation

### 7. Children Continuing Care

- Await WG review of 2012 guidance for continuing care for children and young people consultation closed on the 9<sup>th</sup> of September 2019.
- Issues continue with LAC placement funding, several meetings undertaken between Swansea LA and SBHB Exec team.

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- CCN service have begun to use digital documentation in line with Mobilisation, in the process of developing relevant documents, awaiting sign off of the continuing care app from WCCIS. 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 All Wales agreement on the FNC rate for 2019-20
- **Note** the Health Board's Retrospective Claims team are able to manage the reimbursement of deceased self funders in house.
- **Note** the closure of the All Wales Retrospective Claims Team.
- **Note** the change in commissioning arrangements for MH&LD.

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<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	

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