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Bwrdd Iechyd Prifysgol  
Bae Abertawe  
Swansea Bay University  
Health Board



|  |   |                          |                                     |
|--|---|--------------------------|-------------------------------------|
| <b>Meeting Date</b>  | <b>25 May 2021</b>  | <b>Agenda Item</b>       | <b>2.2</b>                          |
| <b>Report Title</b>  | <b>Continuing NHS Healthcare<br/>Quarter 4 Report: January to March 2021</b>  |                          |                                     |
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| <b>Report Sponsor</b>  | Christine Williams Interim Executive Director of Nursing  |                          |                                     |
| <b>Presented by</b>  |   |                          |                                     |
| <b>Freedom of Information</b>                                | Open  |                          |                                     |
| <b>Purpose of the Report</b>                                 | 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.  |                          |                                     |
| <b>Key Issues</b>  | <p>Management and performance of CHC and FNC.</p> <ul style="list-style-type: none"> <li>External Commissioning Group established to support care homes during the COVID period.</li> <li>Actions taken to date in relation to the Supreme Court Judgement for future and backdated FNC rates. All Wales agreement on FNC and CHC rates for 2020-21.</li> <li>Key actions and data in relation to COVID in the care home sector.</li> <li>Partnership agreement to progress establishment of a Transforming Complex Care work programme.</li> </ul> |                          |                                     |
| <b>Specific Action Required<br/>(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>                                       | <p>Members are asked to:</p> <ul style="list-style-type: none"> <li>Note the all Wales agreement on the FNC rate and revised local CHC rate for 2020-21.</li> <li>Note the Health Board's Retrospective Claims team are able to manage the reimbursement of deceased self-funders in house.</li> <li>Note the establishment of the Transforming Complex care work programme.</li> </ul>   |                          |                                     |

## **Continuing NHS Health Care Quarter 4: January - March 2021**

### **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**

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 revised CHC National Framework is currently under review. The consultation process has ended, with national workshops and implementation are delayed due to COVID 19, it anticipated the framework will be published in the late spring of 2021.

A multiagency External Commissioning Group has been set up to ensure care homes are supported by commissioners and receive appropriate WG and local guidance. This group reports to the multiagency Silver Group with escalation to multi-agency Gold and Health Board Gold as required.

### **3. GOVERNANCE AND RISK ISSUES**

#### **Retrospective Claims**

The retrospective claims process for the organisation is managed through the Primary, Community and Therapies Delivery Group. 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.

There are no HB breaches; all HB cases have been reviewed and completed within the recommended 6-month timeframe. There are currently 12 retrospective claims on the database, work on these claims were reactivated in July 2020 following a delay due to the COVID pandemic. One Nurse Reviewer was redeployed to assist staff in the Care Homes at the peak of the Pandemic in December / January.

There has been a noted reduction in the number of new applications during this quarter. It is anticipated that numbers will increase when MDTS resume.

There are currently no retrospective Ombudsman complaints in SBUHB.

**Health Board Retrospective Claims Activated and Reviewed in Q4: January to March 2021**

| CASES | STATUS    | COMMENT  |
|-------|-----------|--|
| 3     | Received  | Applications received in Q4.   |
| 6     | Activated | These are cases where all the relevant documentation has been received to allow activation ready for review.   |
| 7     | Reviewed  | These are cases that have been reviewed by the Nurse Assessor. Chronology and Needs Assessment completed. Outcome determined and sent to Solicitor / Claimant. |
| 2     | Closed    | Cases that have been closed due to either claimant not wanting to pursue or no relevant documentation received within the 5-month timescale.                   |

**Judicial Review**

A process regarding backdating deceased self -funders is currently being prepared by WG with input from CHC leads, the agreed process and communication methods should be available in the near future. SBUHB has approximately 350 deceased FNC self-funder 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. Further meetings are planned with WG to determine the process for deceased claimants.

**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. The Regional Partnership Board has been stood down since COVID so work around pooled budget is on hold. A partnership Gold and Silver meeting process is in place to oversee arrangements and actions including externally commissioned care and care homes.

### **Escalating Concerns**

During Quarter 4, one care home in Swansea is being managed under the Escalating Concerns Policy, due to continued issues relating to the poor quality and leadership by nursing staff and management. This care home continues to be monitored with an appropriate Corrective Action Plan. There are two care homes in NPT continuing to be managed under the Escalating Concerns Policy, both care home has a multiagency Corrective Action Plan in place and is being supported by the HB and NPT LA. The main issues are around poor management, leadership, financial frailty and concerns related to the standards of nursing care. Care home one has 44 individuals placed in the care home, 18 Funded Nursing Care, 6 CHC and 20 residential placements. Care home two has 14 individuals placed in the care home, 9 Funded Nursing Care, 1 CHC and 4 residential placements. This home is under suspension of placements.

### **COVID Period**

Throughout the COVID period robust monitoring mechanisms have been in place to review the status of residential and nursing care homes. A weekly report is collated by West Glamorgan Partnership. Concerns are escalated via Community Silver and updated via Health Board Gold as appropriate. Partnership working has been key to supporting the care home sector. The establishment of a Regional Externally Commissioned Care Group (ECCG) has been pivotal. This group has representation from all key stakeholders, including, Environmental Health, CIW and Public Health. The group has developed and coordinated all communications with the private sector. In addition, virtual support networks were established to support care home managers and owners. The sector remains at risk from a financial perspective due to the high number of vacancies across the region. The additional funding provided to LA's and the HB by WG has been distributed to the care homes according to their claims and occupancy levels. This tranche of funding is available until June 2021, and the ECC Group is commencing a piece of work, to establish if the level of fragility in the sector, with a view to seek views from individual providers regarding their plans when the additional funding ceases. There are approximately 30 homes that are classified as being in the red category (hours below 80% to occupancy).

National meetings are in place to gain an all wales perspective on the distribution of funding following the publication of WG guidance.

Data relating to COVID 19 in care homes: - for the period April 2020-June 2020

## **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 57 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. Care home providers have been offered, since the COVID Pandemic, a place on the Health Board Working Groups currently exploring nurse recruitment.

Since COVID the sustainability of the fragility of the private care home sector has become of increasing concern due to the following issues providers are experiencing:-

- Providers are finding it increasingly difficult to obtain insurance as some insurance companies will not insure against COVID and those that do have insurance the cost is significantly higher.
- Providers are finding it difficult in some instances to obtain support from their banks and in some cases banks have devalued the care home property significantly based on risk to the business due to the ongoing lack of admissions.
- Another threat to the care home sector’s ongoing sustainability is that admissions to care homes have reduced significantly, this can be seen by the amount of vacant beds across the sector, with patients choosing to receive care at home. This has meant an increase in demand for community care services.

#### 4. FINANCIAL IMPLICATIONS

The table below shows the CHC expenditure for the Swansea Bay University Health Board (SBU HB) for 2017-18, 2018-19, 2019-20 and 2021-22.

| Category                 | 2017-18      | 2018-19      | 2019-20      | 2020-21      |              |              |              |              |
|--------------------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
|                          | Total<br>£m  | Total<br>£m  | Total<br>£m  | Qtr. 1<br>£m | Qtr. 2<br>£m | Qtr. 3<br>£m | Qtr. 4<br>£m | Total<br>£m  |
| MHLD                     | 20.70        | 23.01        | 24.78        | 6.61         | 7.10         | 7.54         | 8.73         | 29.98        |
| PCS CHC                  | 15.67        | 17.36        | 20.55        | 5.10         | 6.10         | 6.03         | 6.74         | 23.97        |
| PCS FNC                  | 7.28         | 7.60         | 7.61         | 1.80         | 2.20         | 1.99         | 2.31         | 8.30         |
| Singleton<br>Paediatrics | 0.76         | 0.83         | 1.00         | 0.29         | 0.22         | 0.21         | 0.24         | 0.96         |
|                          |              |              |              |              |              |              |              |              |
| <b>Total</b>             | <b>44.41</b> | <b>48.80</b> | <b>53.94</b> | <b>13.80</b> | <b>15.62</b> | <b>15.77</b> | <b>18.02</b> | <b>63.21</b> |

The 20-21 quarter 2, 3 and 4 costs for MHLD and PCS CHC and FNC include payments in relation to Financial Support for Adult Care Providers in the Context of Covid-19 as directed by Welsh Government:

MHLD                      £0.63m  
 PCS CHC / FNC      £2.2m

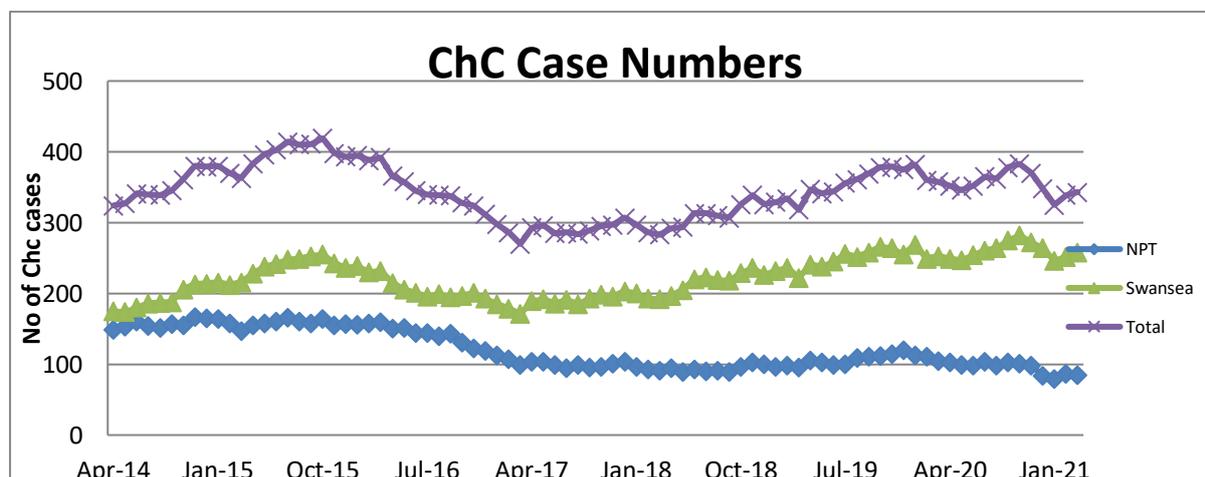
In addition, the increase in expenditure is linked to:

- 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.
- In MH there are increased cases and this includes increased expensive placements from prison.
- In LD there are a number of new expensive transition cases, transition from children's services into LD adult services.

| Financial Year | RN component | Continence component | HB component of FNC rate | Social care related to FNC and so funded by LA<br>(0.385 hours) | Total FNC weekly rate<br>(9.24 hours plus continence component) |
|----------------|--------------|----------------------|--------------------------|---|---|
| 2014/15        | £150.62      | £11.00               | <b>£161.62</b>           | £6.55   | <b>£168.17</b>  |
| 2015/16        | £150.98      | £11.00               | <b>£161.98</b>           | £6.56   | <b>£168.54</b>  |
| 2016/17        | £152.48      | £11.00               | <b>£163.48</b>           | £6.63   | <b>£170.11</b>  |
| 2017/18        | £153.99      | £11.29               | <b>£165.28</b>           | £6.70   | <b>£171.98</b>  |
| 2018/19        | £156.30      | £11.57               | <b>£167.87</b>           | £6.80   | <b>£174.67</b>  |
| 2019/20        | £161.15      | £11.82               | <b>£172.96</b>           | £7.01   | <b>£179.97</b>  |
| 2020/21        | £167.11      | £12.02               | <b>£179.13</b>           | £7.27   | <b>£186.40</b>  |

### 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.



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 to increased numbers within the Swansea area; the number of CHC cases within the

Neath Port Talbot area has remained more stable over the same period. The graph also illustrates the decline in CHC cases within the last quarter.

| Package Cost | % of packages at each rate |         |         |                   |                   |                   |                   |  |
|--------------|----------------------------|---------|---------|-------------------|-------------------|-------------------|-------------------|--|
|              | 2017-18                    | 2018-19 | 2019-20 | Qtr. 1<br>2020-21 | Qtr. 2<br>2020-21 | Qtr. 3<br>2020-21 | Qtr. 4<br>2020-21 |  |
| Under 1K     | 74.1                       | 73.6    | 73.7    | 71.7              | 70.1              | 68.9              | 67.4              |  |
| £1-2K        | 20                         | 19.3    | 18.7    | 20.0              | 20.0              | 20.7              | 21.2              |  |
| Over £2k     | 5.9                        | 7.1     | 7.6     | 8.2               | 9.9               | 10.4              | 11.4              |  |

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.

### Review of commissioned packages

The MH and LD Delivery Unit currently fund a total of 158 Mental Health and 229 Learning Disability independent care sector placements/packages which consist of 51 Mental Health and 110 Learning Disability CHC funded cases. This quarter has seen an increase in CHC referrals within LD services where there is a continued demand with referrals particularly in relation to child transition cases. The impact of COVID has also seen an increase for additional support to existing packages due to the closure of LD day and respite services.

There continues to be sustained growth in the CHC spend within the MH and LD Division and a CHC Action plan encompassing a clear and aligned financial plan has been developed to address some of these factors moving forward into 2021.

### Continuing Health Care applications

A total of 8 DST's were received for scrutiny within the reporting period which is a notable increase from previous Quarters, it is acknowledged that there a significant demand for Decision Support Tool (DST) assessments to be undertaken within the Swansea area in relation to individuals with a Learning Disability and child transition cases.

### Issues Relating to Commissioned Placements

Due to the impact of COVID-19 visits to placements have been suspended with communication being undertaken via telephone/virtual communication methods. As part of the COVID-19 response a partnership group was set up and facilitated to respond to issues affecting externally commissioned placements which has supported

communication and actions across organisations and service providers. Effective communication has been maintained with providers during this period.

There have been a number of issues in relation to Learning Disability Supported Living service providers both within NPT and Swansea areas which are currently being managed via Performance Management with the relevant local authority contracting and commissioning leads and the MH & LD Commissioning team. During March 2021 issues in regards to a MH & LD residential and domiciliary care provider were also identified and a multi-agency approach is currently being undertaken to monitor and investigate findings further as to whether

The issue of the delegation of health related interventions by social care staff in Learning Disability supported living settings in relation to the competency assessment of their staff to undertake delegated health related tasks specifically in relation to enteral feeding (PEG/JEJ) continues to be worked through and a HB wide competency and assessment framework in regards to these types of delegated tasks, particularly in relation to third parties is currently awaiting presentation to the Regional Partnership Group.

During the wave of the pandemic it should also be noted that the MH Division also encountered an increase on 2020/21 referrals in the demand for prison to low secure independent hospital placements. The resulting outbreaks in local secure hospitals and the need for isolation facilities also impacted on the ability to admit and discharge patients affecting the flow and availability of beds during this challenging period of time and the resulting additional financial impacts.

## **6. Children Continuing Care**

- Implementation of the Welsh Government Children & Young People's Continuing Care Guidance (2020) will be incorporated into the West Glamorgan Transformation Board. The Head of Nursing and Divisional Manager are members of the work streams which included children with complex needs and transition.
- CCN service now fully digital in line with Mobilisation to support digital documentation in the home for all staff. The service will now monitor standards of record keeping in line with Health Board standards. Evaluation of digitalisation for the service will be undertaken from a user and staff perspective.
- The Health Board have commissioned an external review of all continuing care packages as a result of concerns raised following feedback from families. This will commence in March 2021, terms of reference are agreed and an external review team appointed. In addition, a review of transition arrangements is currently underway.
- During the Covid-19 pandemic all care packages have been maintained, with regular contact with families to ensure safety for both families and staff.

- The CCN team have participated in an all-Wales survey post first wave of Covid, with positive feedback from families who appreciate regular contact and continued care.
- A post joint funded with Ty Hafan is in the process of being established within Children's services. This post compliments the care and support given to families with children requiring continuing care needs

## **7. TRANSFORMATION OF COMPLEX CARE**

Following on from the opportunities outlined in the KPMG work, partners have agreed that work around complex care needs to be developed on a regional basis. West Glamorgan partnership are coordinating a programme to achieve this.

The Transforming Complex Care Programme aims to develop key processes to reset the management of complex care cases, increasing positive citizen experiences, clarity of the administration and supervision of complex cases with one process, policy and standard operating procedures across the region.

The Implementation Group comprising of heads of service, health board leads and the third sector will be holding their first meeting in September to finalise the task and finish groups and develop project plans for each group. The task and finish groups are:

- Overarching Policy and Standard Operating Procedure
- Financial Governance
- Packages in dispute
- Transition from Child to Adult Services
- Joint Commissioning
- Commissioning for Complex Needs
- Safe Accommodation for Children and Young People
- Implementing CYP Multi Agency Pathway

This builds on the work undertaken within the Health Board, the updates against the Unit action plans are listed below

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

Despite the pandemic, significant work has been undertaken on reviewing the MH & LD CHC position and establishing "moving forward" plans. This has included an external review of the team which produced recommendations for change and improvement which have been built into the CHC Action Plan for 2021/22, along with the recruitment of additional staff into the team which has been pivotal in providing the necessary additional capacity and vigour to respond to the challenge. Investment has also been approved for a dedicated Contracts Manager with interviews planned for early April 2021. This appointment will allow for the whole system review of current MH & LD contracting arrangements fundamental in strengthening governance and assurance arrangements alongside the whole team and service response to the CHC Action plan.

There has been further work been undertaken on the MH CHC Action Plan with action across the following:

- Repatriation of out of area long term care placements in partnership Learning Disability Team
- Reduced cost from review and right sizing by Commissioning Team
- Reduced cost from review and right sizing by ICF funded Nurse Assessor
- Reduced cost from improved management of voids
- Reduced cost from step down to new accommodation schemes in partnership with local authorities [end of 2021-22/start of 2022-23] [One new one for NPT from start of 2021-22 and two for Swansea later in the year
- Reduced cost from repatriation into spare in-house capacity

Containment of inflationary uplifts for providers

- a) Transformation Programme for Learning Disability underway based on findings and recommendations of Specialist NHS Adult Learning Disabilities Needs Analysis (2017) with an associated repatriation programme of current high cost out of area placements to local in-patient services.
- b) Learning Disability outcome focused assessment programme for 2021/22 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.
- c) The continuation of separate MH and LD Division Locality Scrutiny panels in addition to the joint Complex Case panels which enable the opportunity for a partnership approach around robust scrutiny and consideration of in house and alternate service provision. Membership of which includes the MH & LD Divisional leads, service managers, therapy and medical leads along with local authority principal officers.
- d) Development of new supported living accommodation schemes for MH & LD Complex Needs in collaboration with Local Authority partners continues to proceed for 2021/22 despite some slippage with timescales due to COVID. Work around establishing additional schemes for 2022/23 is also progressing in partnership with County Council of Swansea.

## **PCS Financial Improvement Plan**

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.

- Review local scrutiny panels to ensure process followed across NPT and Swansea Panels is consistent.
- 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.
- Reorganise CHC team following boundary change.

- Review impacts associated with early supported discharge
- Containment of CHC inflation. There is inflation at 3.5% included in the Unit forecast but the starting point for agreeing uplifts with providers for 2020-21 has been set at 1.89%
- Impact assess proposal for implementing Children's CHC and LAC West Glamorgan Framework.
- Review NHS Wales benchmarking
- Scope benefits from the NPT Digital Hub model links between ACT and Dedicated Care homes for opportunities.

## **8. RECOMMENDATION**

The Committee is asked to:

- Note the All Wales agreement on the FNC and revised local CHC rate for 2020-21.
- Note the Health Board's Retrospective Claims team are able to manage the reimbursement of deceased self-funders in house.
- Note the establishment of the Transforming Complex care work programme.

| <b>Governance and Assurance</b>  |   |                                     |
|--|---|-------------------------------------|
| <b>Link to Enabling Objectives</b><br><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 financial risks 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  |                                     |

