Cyfarwyddwr Cyffredinol Iechyd a Gwasanaethau Cymdeithasol/
Prif Weithredwr GIG Cymru
Grŵp Iechyd a Gwasanaethau Cymdeithasol

Director General Health and Social Services/
NHS Wales Chief Executive
Health and Social Services Group

Llywodraeth Cymru
Welsh Government

Nick Ramsay, AM
Chair
Public Accounts Committee
National Assembly for Wales
Cardiff Bay, Cardiff, CF99 1NA

Our Ref: AG/JM

18 October 2016

Dear Mr Ramsay

Public Accounts Committee – update on Continuing NHS Healthcare

Continuing Healthcare (CHC) is a complete package of ongoing care arranged and funded solely by the NHS through Local Health Boards (LHBs), where an individual's primary need has been assessed as health-based.

The Welsh Government is responsible for providing policy direction, guidance and advice to health boards on CHC. The National Framework for CHC sets out a mandatory process for NHS Wales, working together with local authority partners, to assess health needs, decide on eligibility for CHC and provide appropriate care for adults.

Retrospective Claims

The retrospective claims process has been 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 the cost of their package of care. If, on review, the conclusion is that the person should have been found eligible for CHC then the individual/their estate is reimbursed by the relevant health board.

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Phases for Retrospective Claims

Phase	For Claim Applications Submitted	Limits of Claim Periods to be Reviewed		Target Review Timescale
		Powys	HBs	
Phase 1	Up to 15/08/2010	01/04/1996 to 15/08/2010	N/A	-
Phase 2	From 16/08/2010 to 30/04/2014	01/04/2003 to 31/07/2013	01/04/2003 -	30/06/2014
Phase 3	From 01/05/2014 to 31/07/2014	01/04/2003 to 31/07/2013	01/04/2003 -	2 Years
Phase 4	From 01/08/2014 to 31/10/2015	N/A	01/08/2013 -	1 Year
Phase 5	From 01/11/2015 to 31/10/2016	N/A	01/10/2014 – 30/10/2015	6 Months
Phase 6	From 01/11/2016 to 30/09/2017	N/A	31/10/2015 – 31/10/2016	6 Months

Previous Scrutiny

This area has been subject to scrutiny by the previous Public Accounts Committee (PAC). It PAC issued a number of recommendations in December 2013 regarding the implementation of the CHC Framework. The Welsh Government submitted evidence to the PAC on its progress with implementing those recommendations and a follow-up report was issued in March 2015. This recognised that improvements had been made but concerns remained about delays and possible inconsistencies in health board decision making.

Further detail on progress against each of the recommendations in the follow-up report follows. This includes, under recommendation 3, the latest position regarding the number of claims currently in the system and the anticipated time to process them.

Welsh Government Position against Public Accounts Committee CHC Recommendations

PAC Recommendation 1
The Committee recommends that, to ensure confidence in the quality and consistency of decisions on continuing healthcare funding awards, the annual audit samples of all Health Boards should be undertaken independently, by the same team.
Welsh Government Position
Following the Committee's recommendation an independent audit of all Health Boards was undertaken in Autumn 2015 by the National Director for Complex Care, the Director of the National Project in Powys and a Welsh Government policy lead for Continuing Healthcare. This will be done again, by the same team, during October and November 2016 and for future years. Health boards have provided assurance that the feedback and recommendations provided have been actioned. Compliance against recommendations is also monitored through the National Complex Care Board, which is co-chaired by the Director of Social Services and Integration and the Chief Executive of Powys Teaching Health Board. The annual report due to be published in November will also be a vehicle for demonstrating health boards' progress on delivering improvements in implementing the NHS Continuing Healthcare Framework**.**
Recommendation 2
The Welsh Government should provide the Committee with details of the outcomes and findings from the on-going review of cases with learning disabilities, which is concluding in March 2015.
Welsh Government Position
There have been some concerns that the CHC Framework may not be an appropriate approach for those individuals with a learning disability (LD). LD is not an illness and services for people with a LD should be provided via a social model rather than a medicalised approach, seeking to support independent living and allowing individuals to retain a voice and control over the support they receive. What is important is that outcomes are in the best interest of the individual and that health boards are being consistent in the way that they apply the Framework to people with a LD. The Welsh Government undertook work as part of the development of the 2014 National Framework to consider how best to address issues around LD and CHC. A key issue is how the cognition domain within the Decision Support Tool operates for those with an LD. Some assessments appear to identify cognition related needs as low (the rationale being this is a behaviour

that is expected and usual for the individual) whilst others score high (leading to an increased chance of eligibility for CHC).

In 2015 Health Boards undertook reviews of joint funded LD cases to ensure that eligibility for CHC had been explicitly considered and discounted before constructing joint funded packages of care. This process is ongoing, with eligibility considered at the next review for all joint funded LD cases.

Health boards also undertook a dip sampling exercise to assess whether the primary health need was appropriately considered in determining eligibility. A sample of Learning Disability cases were also included as part of the sample audit undertaken in 2015.

These exercises showed there was clear evidence that decisions taken were in the best interests of individuals although there were some differences in the way that needs are considered, especially in relation to cognition. Two workshops have been held with members of the Learning Disability Advisory Group (LDAG) to discuss these issues and they have also been considered by the National Complex Care Board. We will use the opportunity to further refine the Framework in this area when we update it next year.

The Learning Event, to be held in November 2016, will also help to embed consistency in the way the Framework is being implemented in respect of people with a Learning Disability.

Recommendation 3

The Committee recommends that the Welsh Government continues to monitor Health Boards' progress in processing retrospective claims and if necessary, refer claims not processed within the prescribed deadline to the Powys Project and provides the Committee with an update before the summer recess.

Welsh Government Position

An update was provided in July 2015. This confirmed that health boards had transferred the backlog of Phase 2 and Phase 3 cases to the Powys project.

<u>Summary of latest position</u>

A summary of the latest position in respect of claims currently in the system can be found in the table below.

Powys project		received	completed	to be processed
	Phase 2	941	377	564
	Phase 3	1514	301	1213
		2455	678	1777

Health Boards		received	completed	to be processed
	Phase 2	595	546	49
	Phase 3	224	103	121
	Phase 4	533	306	227
	Phase 5	98	21	77
		1450	976	474

Health boards transferred a total of 941 Phase 2 cases to the Powys project. As at September 2016, 377 cases have been completed. Many Phase 2 claims have lengthy claim periods (up to 10 years) and this has led to longer than anticipated processing times due to the volumes of records that have to be reviewed. In order to overcome this, and in the interests of probity and the public purse, an amended process has been introduced in order to identify the appropriate period that should be considered for retrospective CHC eligibility, rather than considering the full period of the claim in all cases. This process has been approved by the Public Services Ombudsman for Wales. Using this new process it is anticipated that all claims will be completed by December 2017.

The project is also dealing with the processing of 1514 Phase 3 claims. 301 have been completed and this leaves 1213 cases to be reviewed. The revised process is also being applied to Phase 3 claims. The published target of reviewing all claims within two years of the date of activation remains achievable and it is anticipated that all Phase 3 claims will be completed by the middle of 2018.

Of the 595 Phase 2 claims that remained with health boards, 546 of these have been completed. Of the 224 Phase 3 claims that remained, 103 have been completed. 51 of the outstanding claims in relation to Phase 2 and 3 are awaiting the necessary documentation to start the review from the claimant. In relation to Phase 2 and 3 an expectation was set that these would be processed within two years of receipt of the necessary information. Whilst this timescale has not been achieved in the majority of Phase 2 claims (hence revised arrangements were put in place) there are currently no reported breaches in relation to Phase 3 claims.

A total of 533 Phase 4 claims have been received, with 306 of these having been completed. Health Boards have provided assurance that the 12 month timescale for processing Phase 4 claims once all the necessary documentation has been received remains realistic in the majority of cases.

A total of 98 Phase 5 claims have been received to date. 21 of these have been completed. The claim period closes on 31 October 2016. Health

Boards will have 6 months to review these cases once they have received all the necessary documentation from the claimant.

We monitor monthly progress on retrospective claims and the National Complex Care Board also monitors progress on a quarterly basis.

Recommendation 4

The Committee recommends that the Welsh Government reports to the Committee before the summer recess on the expansion of the local and national recruitment programme and whether this has led to improvements in the time taken to process current and future claims.

Welsh Government Position

An update was provided in July 2015. This confirmed that the necessary recruitment within the Powys project was underway and it was expected to reach full staffing capacity by November 2015.

However, recruitment has continued to be a challenge and a risk to the timely processing of current and future claims, particularly for the Powys project, due to the temporary and specialist nature of the roles which give rise to highly skilled and motivated staff who then look for opportunities to progress. Over recruitment is being pursued by the Project in order to mitigate against high turnover of staff.

Recruitment at both local and national level is reported to Welsh Government on a monthly basis and is discussed quarterly at the National Complex Care Board.

Recommendation 5

The Committee recommends that the Welsh Government monitors Health Boards to ensure that the shorter processing deadline for more recent claims does not result in unintended consequences of longer resolution times for long-standing claims which are unresolved.

Welsh Government Position

Progress on processing claims is monitored on a monthly basis and quarterly by the National Complex Care Board. The revised model for Phase 2 and 3 claims agreed in 2015 has led to improvements in the time taken to process claims although some issues remain as set out above. Both the National Project and Health Boards are alive to the need to ensure resources are positioned so as to enable the timely processing of more recent claims whilst continuing to make good progress on the long standing claims. This has been evidenced in the monthly returns on retrospective claims submitted to Welsh Government.

Recommendation 6

The Committee recommends that the Welsh Government ensures that governance arrangements are clear and well understood in relation to complex care. This will include monitoring the effectiveness of such arrangements and the engagement of members of the National Complex Care Board and any task and finish groups which support its work.

Welsh Government Position

The Wales Audit Office report identified the need for improved governance and accountability arrangements around complex care, with a recommendation that a National Complex Care Board (NCCB) be established to oversee the delivery of national policy. Each Health Board has considered and approved the Governance and Accountability Framework and this has been operational since 2014. It includes:

- The establishment of a NCCB, chaired jointly by the Welsh Government's Director of Social Services and Integration and the Chief Executive of Powys Teaching Health Board;
- The establishment of a Performance and Operations (i.e. operational delivery) Group comprising of CHC leads in each HB, to oversee the implementation of CHC and other complex care policy through to delivery via robust service models;
- The establishment of a Stakeholder Reference Group to act as a broad expertise base to advise the national Board as necessary;
- The establishment of a Retrospective Claims Management Group (RMG) chaired by the Chief Executive of Powys Teaching Hospital and attended by the CHC Retrospective Lead from the National Project, each Health Board and Welsh Government to specifically monitor and oversee the management of retrospective claims

The NCCB held its first meeting in early 2015 and meets bi monthly. Its role is to have strategic oversight of complex care related issues; oversee the implementation of policy; seek to ensure consistent and robust service models are in place; and be the main point of contact with Welsh Government policy officials. The NCCB comprises senior Health Board and Welsh Government representatives, with access to wider advice and guidance via the Welsh Government established Stakeholder Reference Group (SRG).

The effectiveness of these arrangements is monitored on an ongoing basis, with consideration being given to the role and function of the various groups and adjustments made as necessary.

Recommendation 7
In addition to the current leaflets that are designed to be accessed once an individual is 'in the system'; the Committee recommends that the Welsh Government publishes a general public information leaflet on continuing health care. These leaflets should be shared with health and social care professionals and distributed widely, including being made available in doctors' surgeries.
Welsh Government Position
Information materials for the public were reviewed in 2015 and again in 2016 and copies of a general public information leaflet have been sent to health boards for distribution to a wide range of organisations, settings and services. This leaflet, along with other guidance and information relating to CHC is also available electronically on the Welsh Government website and the jointly owned NHS and Welsh Government Complex Care and Information Support Site (CCISS).
Recommendation 8
The Committee recommends that mandatory guidance is issued to Health Boards and social care providers on where information in relation to continuing health care should be made available. This should include the provision of information to individuals (and/or their family members) who are in, or prior to admission into a care home, including details of how the Decision Support Tool is applied to individuals being assessed for Continuing Healthcare.
Welsh Government Position
A Welsh Health Circular was distributed to all health boards and social care providers in July 2015, setting out where such material should be distributed. It is also available on the Welsh Government and the NHS websites. The guidance directs health boards to undertake best practice by distributing to an enclosed standard distribution list as a minimum such as local care homes, GP surgeries, frontline services, and health and social care professionals. It places the onus on health boards to ensure the material is provided to individuals so it is widely available. This includes prior to admittance to a care home and how the Decision Support Tool is applied to individuals being assessed for CHC.
Recommendation 9
The Committee remains concerned about the awareness, quality and level of provision of advocacy services provided by different Local Health Boards and is supportive of patients and carers understanding

their options and the decision-making process as well as healthcare professionals. The Committee recommends the Welsh Government reports to the Committee before the summer recess, on how it intends to improve the consistency, quality and awareness of advocacy services.

Welsh Government Position

An update was provided to the Committee in July 2015. This stated that Welsh Government would ask health boards for an update on their position on advocacy and the approach taken. It also confirmed that the role of the advocate has been clarified in the Practitioners' Frequently Asked Questions booklet and that advocacy would be considered as part of health boards self-assessments.

The 2014 CHC Framework states that health boards and local authorities should make individuals aware of local advocacy services that may be able to offer advice and support. It also states that health boards need to consider the adequacy of advocacy services for those who are eligible or potentially eligible for CHC, and whether any action is needed to address any shortfalls.

The updates and the self-assessment reports of Autumn 2015 indicated that there was some lack of clarity amongst practitioners about the role and types of advocacy that are available and in some cases health boards had not established whether the quality and level of advocacy provision was adequate.

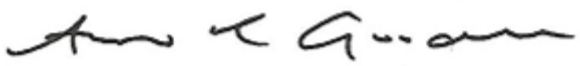
In order to address this, the Welsh Government issued a briefing on the different types of advocacy that exist and which health boards should be providing or facilitating access to. It has also asked the Welsh Institute for Health and Social Care to undertake a scoping study focusing on the experience of users/patients/carers, advocates and staff involved in the CHC process and decision making and this will also give us some useful information about the adequacy and effectiveness of advocacy services.

The last annual sample audit indicated that in many cases, family members or carers act as advocates and that a need for specific advocacy teams for continuing healthcare had not been identified. Health boards have also told us that the role of the Care Co-ordinator and Registered Nurse in improving communication and engagement with individuals and their families has led to greater knowledge and confidence in the process and has meant that demand for advocacy has reduced. Whilst processes and the commissioning of advocacy differ across health board boundaries, they are all managing the need for advocacy within their current systems and resources.

There has also been considerable action on advocacy in its wider form relating to the Social Services and Well-being (Wales) Act. A code of

practice on advocacy has been published and this reinforces local authorities' and local health boards' duties to evidence need through the joint population needs assessment and utilise partnership and co-operation powers to jointly commission advocacy services for their area and to utilise the pooled funding arrangements

Yours sincerely



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