



AGENDA ITEM

3.3

CTM BOARD

NHS FUNDED NURSING CARE (FNC)

Date of meeting

(28/11/2019)

FOI Status

Open/Public

If closed please indicate reason

Choose an item.

Prepared by

Sian Lewis, Lead Nurse, Continuing Health Care & NHS Funded Nursing Care

Presented by

Greg Dix, Executive Director of Nursing, Midwifery & Patient Care

Approving Executive Sponsor

Executive Director of Finance & Procurement

Report purpose

FOR APPROVAL

Engagement (internal/external) undertaken to date (including receipt/consideration at Committee/group)

Committee/Group/Individuals

Date

Outcome

The lead Health Board Chief Executive Officer (CEO) and the lead Executive Council Member of ADSS Cymru have met with sector representatives on a number of occasions over the past year to ensure appropriate engagement and also as a route to address and ongoing queries/issues.

VARIOUS

ENDORSED FOR APPROVAL

These meetings have been productive and helpful and sector representatives have indicated they are content with the extension of the IUM as the recommended approach along with a need to begin consideration of an appropriate longer term methodology.		
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ACRONYMS	
	Continuing NHS Health Care (CHC), NHS Funded Nursing Care (FNC), Registered Nursing (RN), Inflationary Uplift Mechanism (IUM), Local Authority (LA), Health Board (HB), Welsh Government (WG), Chief Executive Officer (CEO)

1. SITUATION/BACKGROUND

- 1.1 To seek Board approval for:
 - Extending the current methodology used to calculate the FNC rate for a further two years;
 - Confirming the FNC rate for 2019/20 and 2020/21
- 1.2 Funded Nursing Care (FNC) refers to the NHS funding of Registered Nursing (RN) care within care homes, where this has been assessed as necessary. In addition to funding RN time the rate also includes a component to fund any continence provisions that may be necessary
- 1.3 Board members will recall from previous papers, most recently in March and December 2018, the background to this and the work commissioned by Health Board's (HB's) from Laing & Buisson that was used as the basis for uplifting the FNC rate. Following this, legal challenges culminated in 2017 with a Supreme Court hearing.
- 1.4 The Supreme Court found that, in addition to the services already funded, HBs should fund some further services provided by the RN. The Judgement also resulted in Local Authorities being responsible for funding some of the RN time, where the RN is providing a service that is incidental and unconnected to the nursing care requirement. Previous Board papers have set out the Supreme Court judgment in detail and the work underway across HBs and with Local Authority representative partners to revise the funding model and address outstanding matters to reflect the Supreme Court's Judgement.



2. SPECIFIC MATTERS FOR CONSIDERATION BY THIS MEETING (ASSESSMENT)

The Funding Methodology

- 2.1 In 2014, HB Boards approved the adoption of an Inflationary Uplift Mechanism (IUM) to be used when calculating the FNC rate. The IUM methodology linked the labour element of the FNC rate to mid-point Band 5 of the NHS Agenda for Change pay award, with the continence component of the rate uplifted in line with CPI. Uplifts have been made on an annual basis in line with this and, since 2014, have been adjusted to reflect the revised rates post Supreme Court Judgement.
- 2.2 Boards approved the IUM in 2014 to apply for a period of five years, then review. The five years completed with 2018/19 and so Boards now need to consider the approach to apply from 2019/20 onwards.

The Recommended approach

- 2.3 Health Board professional and finance leads for longer term care have developed and considered a number of options regarding the methodology to apply from 2019/20 onwards and are all in agreement that the recommended approach be that the IUM be extended for a further two year period – to cover 2019/20 and 2020/21. There are a number of reasons why this is viewed to be the most appropriate approach:
- The IUM as a process has operated successfully for the past 5 years;
 - An extension of two years would cover the full 3 years of the current NHS Agenda for Change pay award;
 - It allows for further time to consider alternative longer term approaches following an anticipated Welsh Government (WG) policy review and also work commissioned in England from Laing & Buisson;
 - The opportunities/implications of pooled budgets as they further develop.
- 2.4 In addition to the expert advice from HB professional/finance leads, the HB Deputy Directors of Finance and Directors of Finance have also considered this matter and agree that the extension of the current methodology for a further two years is the most appropriate option.
- 2.5 CEOs have also considered the advice from the professional and finance leads and support the proposal to extend the IUM for a further two years – to cover 2019/20 and 2020/21.

2.6 HB Boards across Wales are now asked to ratify the proposal.

3. KEY RISKS/MATTERS FOR ESCALATION TO BOARD/COMMITTEE

The 2019/20 rate

- 3.1 Setting the 2019/20 rate using the IUM has been more complex than usual. The three year NHS pay award has included revisions to the actual pay spines, with some incremental points being realigned and different percentage uplifts applied to some points within the Bands. It has emerged, following discussions with provider representatives, that this has an impact on the way the uplift could be calculated.
- 3.2 Two possible options were identified¹ and, following detailed discussions across HBs (and with WG colleagues) there is a majority consensus that the uplift applied should appropriately reflect the changes to the pay scale.
- 3.3 The revised option derives an inflation rate to ensure the resulting uplift is in line with the Midpoint of Band 5, including the effect of both inflation and the pay scale restructure. Adopting this approach ensures that the uplift applied to the nursing pay element of the fee results in the derived salary being in line with the Mid Point of Band 5 over these years and is thus more robust and in line with the way the IUM has been used since 2014. This results in a 3.1% uplift for 2019/20 and a 3.7% uplift for 2020/21. This will have an in year unplanned financial impact of circa £818k across Wales.
- 3.4 This can be demonstrated as follows:

Pay Point	18/19	19/20	20/21
19	24,915	26,220	26,970
20	25,934	26,220	27,416
Average	25425	26220	27193
Actual % uplift	1.5%	3.1%	3.7%

The uplift translates into a weekly HB FNC rate as below. The 2018/19 rate is included for comparison.

¹ The other option would have resulted in a 1.1% uplift in year based on the NHS Wales Pay Journey. When applying this the derived salary in 19/20 and 20/21 it would have been lower than the actual average of pay points 19 and 20.

Year	% uplift of RN labour component	RN component £	% uplift of continence component	Continence component £	Total HB FNC rate* £
2018/19	1.5%	156.30	2.5%	11.57	167.87
2019/20	3.1%	161.15	2.1%	11.81	172.96
2020/21	3.7%	167.11	**	tbc post February 2020	tbc post February 2020

* Note: In addition the LA is responsible for an additional 0.385 hours of RN time. This is currently paid by the responsible LA utilising a WG Grant.

** Note: The CPI uplift for 2020/21 will be based on the February 2020 published index for the previous 12 months, ensuring the rate can be calculated and becomes payable directly from the 1 April 2020.

4. IMPACT ASSESSMENT

Quality/Safety/Patient Experience implications	There are no specific quality and safety implications related to the activity outlined in this report.
Related Health and Care standard(s)	Governance, Leadership and Accountability
Equality impact assessment completed	Not required
Legal implications / impact	<p>Yes (Include further detail below)</p> <p>HB Boards have received a number of updates on FNC linked to the legal proceedings that have taken place over recent years. These updates have provided Boards with detailed information on the work underway following on from the Supreme Court Judgement in 2017.</p>



	<p>This paper focuses on the need to consider the extension of the current methodology to calculate the annual FNC rate – the Inflationary Uplift Mechanism – for a further two years to cover 2019/20 and 2020/21. Lead professional and finance officers in each HB have considered the options and recommend extending the IUM for a period of two more years. Boards are now asked to ratify this recommendation as the approved approach.</p> <p>This paper also sets out the FNC rate for 2019/20 and the approach to setting the rate for 2020/21. The 2019/20 rate calculation reflects the revisions to the Agenda for Change Pay Scale that form part of the three year pay award. Two options exist for setting the rate and the majority consensus view of HB finance leads, professional leads and Directors of Finance is to recommend the option that reflects the impacts of the revisions to the pay scale as set out in the tables above. This paper now seeks Board approval for this recommendation.</p>
Resource (Capital/Revenue £/Workforce) implications / Impact	Yes (Include further detail below)
	See Point 3 of the Report
Link to Main Strategic Objective	To Improve Quality, Safety & Patient Experience
Link to Main WBFG Act Objective	Commitment to corporate social responsibility and improving health & social equity, work with our staff, partners and communities to build strong local relationships and solid foundations of the past



5. RECOMMENDATION

5.1 The Board is asked to:

- **NOTE** that the current Inflationary Uplift Mechanism (IUM) was approved by each HB Board in Wales in 2014 for a period of five years then review;
- **NOTE** that professional and finance leads from each HB in Wales have considered options and recommend that the IUM be extended for a further two year period, to cover 2019/20 and 2020/21, for the reasons set out in section 4 of this paper, and that CEOs support this Recommendation;
- **APPROVE** the proposal that the IUM be extended for a further two year period;
- **NOTE** and **APPROVE** the FNC rate for 2019/20 and 2020/21.
- **NOTE** that further work will be undertaken to consider a longer term model following on from a WG review of the FNC policy position and that Boards will be updated on this work as it develops.