



**AGENDA ITEM**

6.1

**AUDIT & RISK COMMITTEE**

**UPDATE ON WRP REIMBURSEMENT**

Date of meeting	8 February 2021	
FOI Status	Open/Public	
If closed please indicate reason	Not Applicable - Public Report	
Prepared by	Sharon O'Brien, Assistant Director of Nursing & People's Experience Becky Gammon, Head of Professional Standards Susie Egglestone-Clarke, Claims Team Manager	
Presented by	Greg Dix, Executive Director of Nursing	
Approving Executive Sponsor	Executive Director of Nursing	
Report purpose	FOR DISCUSSION / REVIEW	
Engagement (internal/external) undertaken to date (including receipt/consideration at Committee/group)		
Committee/Group/Individuals	Date	Outcome
<ul style="list-style-type: none"><li>Daxa Varsani – CTM Finance</li><li>Pauline Robinson WRP representative</li><li>Bahar Chowdury WRP representative</li></ul>	27/01/2021	-Fortnightly support/engagement meetings between CTM UHB and WRP



## ACRONYMS

WRP	Welsh Risk Pool
LFER	Learning From Events Report
CMR	Case Management report
CTMUHB	Cwm Taff Morgannwg University Health Board
W.G	Welsh Government
ILG	Integrated Locality Group

## **SITUATION/BACKGROUND**

Due to changes within Welsh Risk Pool Procedures in June 2019, a Learning from Events Report (LFER) is now required for all claims where an admission of liability had been made prior to 1 October 2019. This is referred to as a Legacy LFER. A deadline of 24 December 2019 was set by WRP however this was further extended to 31 March 2020 by WRP for all Health Boards across Wales.

Prior to the changes a LFER was only required for claims over the value of £25,000 where a reimbursement of monies to the Health Board from WRP was required. Currently each Health Board pays the first £25,000 on all claims and requests reimbursement from WRP to reclaim the remainder. To apply for a reimbursement a LFER, Appendix U1 and Case Management Report (CMR) has to be prepared and submitted to the WRP. The deadline for a LFER under Putting Things Right (PTR) regulations is 60 days and 4 months for a CMR.

Due to the situation and challenges the Health Board faced regarding the number of legacy claims and now outstanding LFERs, the WRP advised the Health Board to submit all the legacy CMR's even if the LFERs are not finalised and this will "stop the clock". This process is applied to Health Boards across all of Wales not specifically CTMUHB.

The current process stipulates that any claims over £1 million requires further Welsh Government approval, however to ensure these are reviewed in a timely manner the WRP and WG have come to an agreement where some of these can be approved at a scheduled WRP panel as the WG are assured of the level of scrutiny at these WRP panels.

With regard to the value of the outstanding legacy claims, the value of the WRP Creditor/Debtor is the sum of payments incurred by the Health Board and which it intends to request reimbursement from the WRP. It is submitted periodically as part of the financial returns by the Health Board. The total current value of the Creditor/Debtor balance at Cwm Taf Morgannwg University Health Board is £34,605m. The creditor/Debtor balance for legacy claims (pre 1 October 2019) was originally £33.244m. Following WRP payments received to date of approximately £1.6m, the outstanding debtor from the legacy claims is circa £31.6m.

There are a number of factors that contributed to the backlog for CTMUHB, including:

- The number of outstanding claims that had already breached but also required the updated LFER
- New staff joining the team who required a period of induction as they had limited experience working in the NHS

- The need to ensure any new claims into the HB did not breach or become additional legacy claims. This resulted in a greater workload than the workforce could meet.

A further review identified that many of the LFERs that had previously been sent to Speciality Directorates were now sitting within the new Integrated Locality Groups but had not been actioned in the required timeframes. This was due to the length of time the breach had been admitted, changes in leadership across many specialities which led to confusion regarding the ownership of these claims Specialities.

In early 2020, there were 189 outstanding LFER for claims with 40 Redress Legacy outstanding. Due to the numbers, WRP offered their support to review the legacy claims and advise on what evidence and information would be required in order for the LFER to be approved by the WRP scrutiny panel.

It became apparent that an alternative solution would need to be sought if the legacy claims were to be submitted by the deadline. In July 2020 a task force was established consisting of a small team of 2 registered nurses in an attempt to address the backlog of LFERs. The taskforce reviewed all the legacy claims and identified themes which allowed the teams to focus on the evidence required and this resulted in creating an evidence library for ease of access. Weekly progress meetings were held with the Claims Officers to review the data reports and allow the team and claims handlers to prioritise the work ahead.

To date there are 69 LFERs remaining for Claims and 16 remaining for redress. These include all cases below and above £25K. All the CMR's have been submitted (i.e for the full £31.6m) for the legacy claims and the taskforce is currently concentrating on those LFERs with a monetary value where the CMR has already been submitted. It should be noted a large number of the maternity cases that were outstanding were significantly high claims (over £1 million). All 7 of the maternity cases of high value LFER and CMR's have now been submitted amounting to £19.2million. On receipt of correspondence from WRP, it is anticipated that all 7 cases will be discussed at WRP Committee in January 2021 and March 2021.

The WRP Debtor Spreadsheet has been updated and is regularly shared with the Finance Department. The WRP are continuing to support the Health Board with fortnightly meetings, chaired by the Assistant Director of Nursing and People's Experience to check the current position and to offer advice and guidance enabling the Health Board to have a more proactive rather than reactive approach to actions required. These fortnightly meetings which include key leads from the Finance Department also allow for the assurance to be maintained with the WRP of the progress of work

being undertaken and is providing the Health Board with a direct line of communication with the WRP.

## **SPECIFIC MATTERS FOR CONSIDERATION BY THIS MEETING (ASSESSMENT)**

The WRP Advisory committee has confirmed that the Redress caseload submitted for reimbursement have all been submitted within the deadline. Additionally, their Safety & Learning Team have given very positive feedback to the contents of the LFER and the high quality of learning information submitted, in particular with the maternity services team.

## **KEY RISKS/MATTERS FOR ESCALATION TO BOARD/COMMITTEE**

In a letter received into the Health Board from the Chair of the WRP on 4 December 2020, the Chair confirmed that at the WRP Committee on 18 November 2020, it was noted that the total value of cases submitted by the 20 September 2020 was £939,638. However, only £323,337 was suitable for reimbursement due to some cases requiring additional evidence of learning and others where the Case Management Report was submitted before the Learning from Events Report. Work is ongoing to action the outstanding LFER and the aim is to be submit the remaining LFERs by 31 March 2021.

The key residual actions are to obtain approval for the re-imburement where both CMR's and LFERs have been submitted, and to submit LFERs for those remaining cases (69 legacy claims and 16 redress claims as outlined above).

The WRP terms state they have the authority to impose interventions such as deferrals or sanctions on health bodies when there is a lack of compliance. The usual sanction imposed on significantly late submission is to withhold up to 50% of the value to be reimbursed to the Health Board. The WRP and Health Board have met regularly and following many discussions, the WRP committee made a decision that in order to encourage progress with clearing the backlog, they would instead introduce a permanent 10% levy for reimbursements that fell outside of the four-month period.

Based on information presented to the WRP Committee, the Chair confirmed in her letter dated 4 December a total of £3,295,581.55 had been submitted for reimbursement at that time. With the 10% levy applied to cases which fall outside of the required timescales a total levy of £304,332 would be applied. Informal discussion with the WRP since this letter has indicated that in light of the recent major improvement in clearing the backlog, there is the possibility that the WRP may withdraw the levy. If

the levy was not withdrawn, the total levy charged for all cases would be significantly greater.

This position will change as further cases are submitted and the Chair of the WRP has requested that the Head of Safety & Learning and Principal Finance Manager for the WRP to collectively write to the Health Board finance teams with a breakdown of case information where a deferral will be applied in order that adjustments can be made to the Health Board's Losses and Special Payments Register.

## IMPACT ASSESSMENT

Quality/Safety/Patient Experience implications	Yes (Please see detail below)
Related Health and Care standard(s)	Governance, Leadership and Accountability If more than one Healthcare Standard applies please list below:
Equality impact assessment completed	Yes Reputational risk from patients and stakeholder.
Legal implications / impact	Yes (Include further detail below) If claims continue not to be closed and reimbursed could result in lessons not shared therefore risk of reoccurrence high.
Resource (Capital/Revenue £/Workforce) implications / Impact	Choose an item.
Link to Strategic Well-being Objectives	Provide high quality, evidence based, and accessible care

## RECOMMENDATION

The Audit & Risk Committee is asked to **NOTE** the position outlined in this report.