

# Welsh Risk Pool claims Final Internal Audit Report

Review Reference: CTMU-2122-06

June 2022

Cwm Taf Morgannwg University Health Board



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Bwrdd Iechyd Prifysgol  
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University Health Board



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Auditors:	Elizabeth Vincent – Principal Auditor Emma Samways – Deputy Head of Internal Audit
Executive sign-off:	Georgina Galletly – Director of Corporate Governance and Board Secretary
Distribution:	Stephanie Muir – Interim Head of Concerns, Redress and Claims Bahar Chowdhury – Legal Services Manager
Committee:	Audit & Risk Committee



Audit and Assurance Services conform with all Public Sector Internal Audit Standards as validated through the external quality assessment undertaken by the Institute of Internal Auditors.

### Acknowledgement

NHS Wales Audit and Assurance Services would like to acknowledge the time and co-operation given by management and staff during the course of this review.

### Disclaimer notice - please note

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## Executive Summary

### Purpose

The purpose of the review is to provide assurance to the Audit and Risk Committee that the claims reimbursement process is in compliance with the Welsh Risk Pool Standard.



### Overview

We have issued reasonable assurance on this area.

The matters requiring management attention include:

- Ensuring completion of required forms in line with WRP timeframes.
- Ensuring processes are in place to capture learning information in a timely manner to support completion of claims
- Ensuring consistency in approach when capturing information in Datix, including dates and financial transactions.

### Report Classification

		Trend
 <p><b>Reasonable</b></p>	Some matters require management attention in control design or compliance.	 2020/21
	<b>Low to moderate impact</b> on residual risk exposure until resolved.	

### Assurance summary<sup>1</sup>

Assurance objectives	Assurance
1 Completed documents within set timescales	Limited
2 Evidence to support costs incurred	Substantial
3 Appropriate authorisation	Substantial
4 Accurate data within Datix	Substantial

<sup>1</sup>The objectives and associated assurance ratings are not necessarily given equal weighting when formulating the overall audit opinion.

Key Matters Arising	Assurance Objective	Control Design or Operation	Recommendation Priority
1 Compliance with timeframes and dates	1	Operation	High
2 Accuracy and approach to capturing information	1 & 4	Operation	Medium

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## 1. Introduction

- 1.1 Our review of Welsh Risk Pool concerns and compensation claims was completed in line with the 2021/22 Internal Audit plan for Cwm Taf Morgannwg University Health Board (the 'Health Board').
- 1.2 Compensation claims usually take a number of years from receipt of claim to settlement and can involve a large number of payments and repayments; this gives rise to a potential for mistakes to occur. The Welsh Risk Pool (WRP) requires that claims for reimbursement and repayment are made within specific timescales.
- 1.3 WRP have developed a standard: *The Compensation Claims Management Standard*, to ensure that NHS bodies:
- Have an effective process for managing concerns raised by patients and staff.
  - Have an effective process for managing legal claims for financial compensation.
  - Ensure that there is good organisational learning from all events.
- Reimbursement of settled claims are either under NHS indemnity, or from April 2018, redress cases.
- 1.4 Area for Assessment 3 of the standard requires Internal Audit to review the accuracy of a representative sample of compensation claims for reimbursement, made on Welsh Risk Pool.
- 1.5 The relevant lead for this review is the Director of Corporate Governance and Board Secretary.
- 1.6 The potential risk considered in this review is that claims costs reimbursed from the Welsh Risk Pool are inaccurately recorded and not appropriately authorised by the Health Board's senior management.

## 2. Detailed Audit Findings

**Objective 1: An appropriately completed learning from events report, case management report, case financial record and a schedule of costs has been completed for each reimbursement claim within set timescales.**

- 2.1 In line with WRP guidance, we reviewed a sample of 25 cases across the three areas of, Clinical Negligence, Personal Injury and Redress. We ensured that each case had an appropriately completed Learning from Events (LFE) report, Case Management Report (CMR), a Finance Case Record checklist (U1/U2) and a Losses and Special Payments Register (LASPAR) schedule of costs had been completed. We confirmed that in all instances the required documentation had been produced with copies stored within the Datix system.
- 2.2 Under the new standard, claims management teams must complete a LFE report within 60 days of the 'decision to settle' date. This requirement came into effect for claims received after October 2019. Only two of the claims in our sample were received after October 2019, one of which did not achieve the target, being submitted six months after the 60-day target date. **(Matter Arising 1)**

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- 2.3 There is a separate requirement to complete legacy LFE reports for pre-October 2019 claims that was put in place by WRP. While the Health Board is working on this, as at January 2022, 174 legacy cases were overdue. An improvement plan has been agreed with WRP to address the shortfall and completion targets set for April, May, and June 2022, although we understand that the Health Board did not achieve the May target and is unlikely to reach the June target. The Executive team are updated weekly on the figures and are aware of the associated risks. **(Matter Arising 1)**
- 2.4 Claims Management teams are expected to complete and submit a CMR and checklist and Finance Case Record (U1/U2) to WRP within 4-months of the final payment date. The Health Board has achieved this target for all redress and personal injury cases within our sample, but there were a number of clinical negligence cases that did not meet the target. The Health Board is at risk of incurring WRP penalty charges if the continue to fail in meeting the target submission dates. **(Matter Arising 1)**
- 2.5 We compared the key dates on the LFE report, the CMR, and the finance checklist U1/U2 to Datix and found minor differences with the 'Decision to Settle' date and the 'Final Payment' date. Discrepancies between these dates could have an impact on the monitoring of the target dates. **(Matter Arising 2)**
- 2.6 Two clinical negligence cases within our sample were dismissed when reviewed by the court. The subsequent process applied by the Health Board to each case was different, meaning that for one of the cases no request was made to the WRP for reimbursement resulting in a financial loss to the Health Board. **(Matter Arising 2)**

#### Conclusion:

- 2.7 We confirmed that all the cases that we tested had the relevant documents required and, in most instances, were submitted to WRP within the required timeframe. We identified differences between the key dates when comparing the documents to Datix, which could impact the monitoring of target dates. We also identified that different processes had been followed for the two cases that were dismissed by the courts. We have provided **Limited** assurance against this objective.

#### **Objective 2: There is appropriate evidence to support the costs incurred.**

- 2.8 From our sample of 25 cases, we reviewed ten cases in more detail to ensure that there was sufficient evidence retained within Datix to support the costs incurred. We also referred to the LASPAR schedules for each case to ensure that they reconciled to the amounts reimbursed from WRP. In all cases there was evidence within Datix to support that the costs were accurate and values reconciled to the LASPAR schedule.

#### Conclusion:

- 2.9 We confirmed that all the cases that we tested had appropriate evidence to support the costs incurred. As such, we have provided **substantial** assurance against this objective.

**Objective 3: Forms have been appropriately authorised aligning with the delegated limits of the organisation.**

2.10 The claims within the sample of 25 cases that we tested had an appropriate governance and case manager declaration, and had been appropriately authorised prior to submitting to the WRP.

**Conclusion:**

2.11 We confirmed that all the cases that we tested had been appropriately authorised. As such, we have provided **substantial** assurance against this objective.

**Objective 4: Claims submitted are accurately entered onto the Datix database.**

2.12 We reviewed the financial records within Datix to verify that the reimbursed amounts from WRP reconciled to the relevant checklists. We reconciled the U1/U2 checklists to the LASPAR reports. The recording of the reimbursement from WRP was not correctly entered into Datix for four of the cases in our sample. These all related to cases where a penalty had been imposed by WRP, but then later reimbursed. **(Matter Arising 2)**

**Conclusion:**

2.13 We confirmed that all of the cases that we tested reconciled to the reimbursed figures from WRP and to the checklists, but the reimbursed amount from WRP were not accurately recorded in Datix for some of the cases we reviewed. Overall, we have provided **substantial** assurance against this objective.

## Appendix A: Management Action Plan

Matter Arising 1: Compliance with timeframes and dates (Operation)	Potential Impact
<p><u>Current Learning from Events (LFE) Reports</u></p> <p>The Claims Management team are required to complete and submit several documents to WRP, each within specified timeframes. This includes a LFE report within 60-days for cases received by the Health Board after October 2019. Only two of our sample of 25 cases fell into this category. One of the two cases did not achieve the 60-day target date and was submitted to WRP six months after the required date.</p> <p><u>Legacy LFE Reports</u></p> <p>Cases that were received by the Health Board before October 2019 require a legacy LFE to be completed. As of the 31 January 2022, the Health Board reported 174 legacy cases overdue. An improvement plan to address the shortfall was agreed with WRP, with completion targets set for April, May and June. We are aware that the May target was not achieved, and it is unlikely all legacy cases will be completed by the end target of 1 June 2022. We understand that the Executive team are updated on a weekly basis of the current status.</p> <p><u>Case Management Reports (CMR), U1/U2 Finance Checklist</u></p> <p>Claims management teams are required to complete and submit a CMR and U1/U2 checklist to WRP within 4-months of the final payment date. 8/25 cases that we sampled did not meet the 4-month target date, with some being up to eight months late. All were clinical negligence cases. The Health Board is at risk of having a 10% penalty imposed by WRP where submissions are late.</p>	<p>Financial loss for the Health Board due to penalties imposed by WRP. Learning from previous events does not take place resulting in recurrence.</p>
Recommendation	Priority
<p>1.1 Management should ensure that required documentation is submitted to the WRP within the specified timeframes and monitoring takes place to ensure compliance with this requirement.</p>	<p><b>Medium</b></p>

<p>1.2 Management and the relevant clinical teams should work together to review outstanding legacy claims, in order to help identify learning and allow completed paperwork to be submitted to WRP and reduce the risk of penalties being imposed on the Health Board.</p>	High	
<p>1.3 To prevent future issues arising, management should ensure all staff are aware of the requirement to capture learning information in Datix at the point of investigation, in order to support the administrative process for reimbursement and to allow appropriate learning to be shared in good time.</p>	High	
Agreed Management Action	Target Date	Responsible Officer
<p>1.1a Legal Services SOPs to be reviewed and updated.</p>	<p>Dec 2022</p>	<p>Legal Services Manager</p>
<p>1.1b Monitoring process to be implemented in respect of deadlines for various paperwork submissions.</p>	<p>June 2022</p>	<p>Legal Services Manager</p>
<p>1.1c Spot check audit to be undertaken bi-monthly on paperwork submissions against deadlines ie CMRs, LFERs etc.</p>	<p>August 2022</p>	<p>Legal Services Manager</p>
<p>1.2 LFER improvement plan in place ensuring engagement from relevant clinical areas.</p>	<p>June 2022</p>	<p>Executives/Assistant Director of Concerns &amp; Claims</p>
<p>1.3 Staff to be reminded of importance of updating Datix Cymru for all incidents and concerns, using various methods such as management discussions, Datix Cymru training programme, patient safety discussions.</p>	<p>June 2022</p>	<p>Assistant Director of Patient Safety/Assistant Director of Concerns &amp; Claims/Care Group Leaders</p>

Matter Arising 2: Accuracy and approach to capturing information (Operation)	Potential Impact
<p>Throughout our testing we identified a number of inconsistencies in the approach to how information was captured, recorded and dealt with.</p> <ul style="list-style-type: none"> <li>Two cases in our sample were dismissed when presented at court. The subsequent process followed by the claims management team differed in each case. For one case no request for reimbursement was made to WRP, whereas for the other case the relevant forms were completed and a reimbursement made.</li> <li>Four cases in our sample had a 10% penalty imposed by WRP as the submission date was not achieved. However, the 10% value was then reimbursed back to the Health Board. The way in which this financial transaction was captured in Datix was incorrect and meant the financial summary information in Datix did not appear to reconcile.</li> <li>In a number of cases, when we compared the 'Decision to Settle' and 'Final Payment' dates on the LFE report, CMR and U1/U2 checklists to Datix, we found different dates on different documents.</li> <li>We found a number of cases where the 'Final Payment' date recorded on the paperwork sent to WRP did not agree to the date of the final invoice shown within Datix. The 'Final Payment' date should originate from date of the last invoice received relating the case. However, there were differences in approach with some staff using the invoice date and some using the date the invoice was paid.</li> </ul> <p>Furthermore, where late invoices were received after the 'Final Payment' date had been recorded in Datix, the system was not always amended, nor was the 4-month CMR due date. In our sample, the date difference were not significant, but the correct input of these dates is key, as they trigger the 4-month target set by WRP.</p>	<p>Financial loss to the Health Board. Inaccurate reporting.</p>

Recommendations		Priority
<p>Procedures should be in place that provide staff with clear guidance on how to process claims, especially the dates that are to be used in relation to the 'Decision to Settle' and 'Final Payment', and the circumstances of when these dates should be updated in Datix.</p> <p>Guidance should also cover the other issues we identified including the correct process for capturing financial transactions in Datix and the process that should be followed if a claim is dismissed when taken to court.</p>		<p><b>Medium</b></p>
Agreed Management Action	Target Date	Responsible Officer
<p>2.1 Legal Services SOPs to be reviewed and updated and staff to be retrained where appropriate.</p>	<p>December 2022</p>	<p>Legal Services Manager</p>
<p>2.2 SOP to be devised to assist staff through the financial process if a claim is dismissed.</p>	<p>December 2022</p>	<p>Legal Services Manager</p>

## Appendix B: Assurance opinion and action plan risk rating

### Audit Assurance Ratings

We define the following levels of assurance that governance, risk management and internal control within the area under review are suitable designed and applied effectively:

	<b>Substantial assurance</b>	Few matters require attention and are compliance or advisory in nature. <b>Low impact</b> on residual risk exposure.
	<b>Reasonable assurance</b>	Some matters require management attention in control design or compliance. <b>Low to moderate impact</b> on residual risk exposure until resolved.
	<b>Limited assurance</b>	More significant matters require management attention. <b>Moderate impact</b> on residual risk exposure until resolved.
	<b>No assurance</b>	Action is required to address the whole control framework in this area. <b>High impact</b> on residual risk exposure until resolved.
	<b>Assurance not applicable</b>	Given to reviews and support provided to management which form part of the internal audit plan, to which the assurance definitions are not appropriate. These reviews are still relevant to the evidence base upon which the overall opinion is formed.

### Prioritisation of Recommendations

We categorise our recommendations according to their level of priority as follows:

Priority level	Explanation	Management action
High	Poor system design OR widespread non-compliance. Significant risk to achievement of a system objective OR evidence present of material loss, error or misstatement.	Immediate*
Medium	Minor weakness in system design OR limited non-compliance. Some risk to achievement of a system objective.	Within one month*
Low	Potential to enhance system design to improve efficiency or effectiveness of controls. Generally issues of good practice for management consideration.	Within three months*

\* Unless a more appropriate timescale is identified/agreed at the assignment.



NHS Wales Shared Services Partnership  
4-5 Charnwood Court  
Heol Billingsley  
Parc Nantgarw  
Cardiff  
CF15 7QZ

Website: [Audit & Assurance Services - NHS Wales Shared Services Partnership](#)