National Assembly for Wales
Public Accounts Committee

Implementation of the National Framework for Continuing NHS Healthcare

December 2013

Cynulliad Cenedlaethol Cymru
National Assembly for Wales

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The Public Accounts Committee was established on 22 June 2011.

Powers
The Committee's powers are set out in the National Assembly for Wales' Standing Orders, with its specific functions of the Committee are set out in Standing Order 18 (available at **www.assemblywales.org)**. In particular, the Committee may consider reports prepared by the Auditor General for Wales on the accounts of the Welsh Government and other public bodies, and on the economy, efficiency and effectiveness with which resources were employed in the discharge of public functions.

The Committee also has specific statutory powers under the Government of Wales Act 2006 relating to the appointment of the Auditor General, his or her budget and the auditors of that office.

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Clwyd West

Mohammad Asghar (Oscar)
Welsh Conservatives
South Wales East

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Welsh Liberal Democrats
North Wales

Contents

Chair's foreword / Summary

Equitable and timely access to continuing NHS healthcare is essential, but regrettably this has not always been the case here in Wales and this has led to some patients and their loved ones feeling disenfranchised and 'let down by the system'.

Whilst recognising and welcoming the approach being taken by the Welsh Government to address issues identified by the Auditor General in his report on the 'Implementation of the National Framework for Continuing NHS Healthcare' the Public Accounts Committee remains of the view that more could, and should, be done to ensure that patients and their loved ones are treated consistently and fairly when they engage with the continuing NHS healthcare process.

We believe there remain a number of areas within the Framework that need improving and the Welsh Government should monitor its impact more robustly. Through our recommendations we seek further clarity on the Welsh Government's approach to improving consistency and the assurances we feel are needed to improve fairness and ensure those who need continuing care are able to access the services they need.

Furthermore, of key concern to us is the impact upon individuals and families of delayed decisions relating to claims for continuing healthcare. The financial hardship faced by many individuals and their families while they await the outcome of a challenge to a claim is unacceptable and can be significant. As a result of this we have recommended that greater consideration should be given to the financial circumstances of individuals and families in prioritising claims, and that more support be afforded to them to assist them in understanding and engaging in the process.

We trust that these, along with our other recommendations, will result in positive action from the Welsh Government to deliver the changes required to address our concerns.

The Committee's Recommendations

The Committee's recommendations to the Welsh Government are listed below, in the order that they appear in this Report. Please refer to the relevant pages of the report to see the supporting evidence and conclusions:

Recommendation 1. We recommend that the Welsh Government assess the impact of amending the decision support tool upon those people scored under the previous decision support tool. (Page 16)

Recommendation 2. We welcome the Welsh Government's commitment to the provision of training to practitioners and professionals in this area, and we recommend that the Welsh Government monitors progress to ensure that this leads to improvement. (Page 17)

Recommendation 3. We note the Welsh Governments approach to ensuring that peer review processes are in place to run alongside the use of a self-assessment tool and recommend the Welsh Government monitor these processes to ensure they are achieving their intended outcome. (Page 19)

Recommendation 4. We are concerned that the claims are dealt with in a chronological order in accordance with the date on which they are received. We believe that this does not take into account the individual needs and circumstances of claimants. We recommend that Welsh Government give consideration to prioritising claims according to the circumstances of individuals and families. (Page 21)

Recommendation 5. We believe that there are a number of misgivings about the current approach to engaging individuals and their families in the assessment process. We recommend that a proactive approach is needed to ensure information is provided to those who need it enabling them to challenge decisions on eligibility. Such information should be clear and simple. (Page 21)

Recommendation 6. We recommend that Welsh Government, based on progress made to date by the National Project in clearing claims, reviews whether staffing levels are adequate and gives consideration is to improving staff retention to meet the June 2014 deadline. (Page 24)

Recommendation 7. We recommend that the Welsh Government provide the Public Accounts Committee with an interim progress update on the clearance of claims in March 2014 and also provide further update in September 2014 following the June 2014 deadline. (Page 24)

Recommendation 8. We recommend that the National Project is not disbanded until the backlog of claims are cleared. (Page 25)

Recommendation 9. We welcome the Welsh Government's consideration of aiming to put a closure point on claims within a maximum of two years from when a claim is received. We believe that all claims should be dealt with within a maximum of two years. We recommend that an update on the outcome of this consideration is provided to the Public Accounts Committee on conclusion of this work. (Page 26)

Recommendation 10. We are concerned about the situation post June 2014 given the lack of clarity from Welsh Government as to whether health boards will be responsible for clearing claims or a single approach across Wales will be adopted. We recommend that the Welsh Government either develops with a coherent plan for clearing the backlog of cases, or gives further consideration to whether the National Board should deal with claims which health boards are currently responsible for post June 2014, and make clear its intentions regarding this. (Page 27)

1. Introduction

1. The Auditor General's report on the '*Implementation of the National Framework for Continuing NHS Healthcare'* was published on 13 June 2013. While the report found that the framework has delivered some benefits it also highlighted that more needed to be done to ensure that people are dealt with fairly and consistently.

2. When assessed as having a primary health need, people are eligible for Continuing NHS Healthcare (CHC), which is a package of care and support that is provided to meet all of the assessed needs of an individual, including physical, mental health and personal care needs. CHC is often long term, although it can be episodic in nature with some people moving in and out of eligibility. Health boards reported that 5,447 people across Wales were in receipt of CHC as at 31 March 2012.

3. When someone is eligible for CHC, the NHS has responsibility for funding the full package of health and social care. Where the individual is living at home, the NHS will pay for health care and social care, but this does not include the costs of food, accommodation or general household support. Where a person is eligible for CHC and is in a care home, the NHS pays the care home fees, including board and accommodation.

4. The Auditor General report's findings covered two areas:

- That the Framework could be improved in a number of areas, and its impact monitored more closely; it has not been implemented fully across Wales; and full assurance is lacking that decisions are fair and consistent within and between Health Boards;
- That there is a significant risk that the national project to deal with retrospective claims will not meet the agreed deadline and those new backlogs of retrospective claims had developed in health boards.

5. The Public Accounts Committee received a briefing on the report's findings from the Auditor General Wales (AGW) at its meeting on 25 June 2013. Arising from the issues discussed at the meeting the Committee agreed to invite evidence from Welsh Government which was provided orally and in writing.

6. This report outlines the findings of the Committee's work and makes a number of recommendations to Welsh Government.

2. The Continuing Health Care Framework

Welsh Government's review of the Framework

7. The Auditor General for Wales' (Auditor General) report notes that the Welsh Government is to review the Continuing Healthcare (CHC) Framework and indicates that this will provide a means of addressing many of the issues raised in the report.[1]

8. In oral evidence, the Auditor General confirmed that:

> "The Welsh Government has committed to a review of the framework, and a work programme is being developed to facilitate this. I understand that it will draw upon the findings of my report."[2]

9. The Auditor General's report also identified a significant delay between the initial draft CHC Framework being available in December 2007, and the issue of the final version of the Framework in May 2010.[3] The report found that the delay was caused, in part, by the limited capacity of the Welsh Government to consider consultation responses and finalise the Framework.[4]

10. In evidence to the Committee the Welsh Government informed us that it had accepted the Auditor General's report and its recommendations.[5]

11. The Committee questioned Welsh Government Officials on whether they were confident that any future revised Framework would be developed and agreed in a timely fashion. The Director General for Health and Social Services informed us that:

> "You will be pleased to hear that action has taken place since receipt of the report in June. We set up a number—I think that it was 12 or 13—of task and finish groups to look at various aspects. They have now, virtually, completed their work and the first draft of a revised framework, subject, as I said, to an

[1] Wales Audit Office, Implementation of the National Framework for Continuing NHS Care, 13 June 2013, 13 June 2013 paragraph 11
[2] RoP, Public Accounts Committee, 25 June 2013, paragraph 141
[3] Wales Audit Office, Implementation of the National Framework for Continuing NHS Care, 13 June 2013, paragraph 1.3, page 18
[4] ibid, paragraph 1.3, page 19
[5] RoP, Public Accounts Committee, 8 October 2013, paragraph 3

extensive process of engagement, will be completed in the next week or so. It will be out for consultation for three months from November. There will be some period of time to assess the outcomes of that, but with a view to move, with pace, to the implementation and launch of a new framework in early summer. We mean 'early summer' as in June or July, rather than anything that drifts later into the summer."[6]

12. Furthermore, in terms of developing a revised Framework, a Welsh Government Official informed us that:

> "Intensive work has been completed with all of the stakeholders and various task and finish groups. From that, they have come up with a number of proposals that will go into the revised framework for consultation. Those proposals begin to address some of the concerns that have been raised to enable us to be much better placed for the citizen in the future."[7]

13. We are content with the assurances provided by the Welsh Government that the timescales for delivery of the revised framework will be met. However, we will wish to monitor progress at regular intervals.

Self-assessment and Improvement Checklist

14. The Auditor General has developed and published a self-assessment and improvement tool to help health boards better meet the requirements of the Framework. The introduction to the tool makes clear that, as far as possible, the tool has been designed in such a way as to accommodate any future changes. For example, the tool refers to 'prescribed timescales' rather than the current timescales contained in the Framework. The tool has been developed in consultation with the National CHC Advisory Group.

15. During the Committee's discussions we sought clarity from the Welsh Government on whether the intention was to consult with health boards on the use of the self-assessment and improvement tool or making it a requirement on health boards to use the tool as recommended by the Auditor General. We were informed that:

[6] RoP, Public Accounts Committee, 8 October 2013, paragraph 3
[7] ibid, paragraph 25

> "It will be consulted upon, but, in a sense, we do not want to wait- there is a danger of always waiting to do something; so, why not get ahead and test it out in the New Year to see if there are benefits to health boards using it? If we presume that the outcome of the consultation will be to adopt that, the health boards will have had some experience of using it already and will be in a position where they will have done a self-assessment so that the can move on with the insight that that offers."[8]

16. The Committee sought further clarity on how the Welsh Government intends to monitor use of the self-assessment tool and ensure that the tool is appropriate. A Welsh Government official explained that:

> "We will have a formal process whereby the self-assessment must be completed by local health boards within a three-month period. That three-month period will be the time when they will do that work. Alongside that, we will have the peer review – so, we will have the peer review challenge. This is a process where we are bringing together different ways of ensuring that we get that consistency. We will also have a formal reporting in the annual report where that will be fed through. So, in terms of being publicly available, we will have information that will provide assurances. We are also developing the performance framework, and that is where that monitoring will be.
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> […]
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> "The annual performance report will be produced in September of next year. That will be the first annual report by local health boards."[9]

17. Furthermore, the Committee heard that:

> "…in terms of challenge and peer review, a peer review process will be introduced to run alongside that, where there will be local health boards that will be led by and facilitated by—and this is where the Welsh Government is taking this responsibility—the Welsh Government, to bring together and to look at and to critically analyse that information. They will have a responsibility then for publicising an annual report. So, in terms of getting a

[8] RoP, Public Accounts Committee, 8 October 2013, paragraph 118
[9] ibid, paragraph 122

> whole picture, and moving in terms of timescales and responsibility, we will have a very clear picture, and we will be leading and measuring their performance, and the performance framework."[10]

18. We welcome the Welsh Government's approach in monitoring the use of the self-assessment tool and look forward to considering the outcomes of the monitoring in the first annual performance report due to be published in September 2014.

Leadership

19. The Auditor General's report outlines the role of the National CHC Advisory Group in overseeing the operation of the Framework. It highlights a lack of strategic leadership for CHC with the demise of the CHC National Programme Board and the slow progress made by the Complex Care Steering Group.[11]

20. We questioned Welsh Government officials on the steps being taken to strengthen leadership on CHC, nationally and within Health Boards. The Director General for Health and Social Services and Chief Executive of the NHS informed us that:

> "The arrangements that we will put in place—these are significantly, if not fully, in place—include accountable lead directors for each health board. So, there will be a clear point of leadership within each health board at director level. That has perhaps been one of the issues that the lead has not always been at director level. They will be responsible for reporting to their boards quarterly and to us annually on the quality and outcomes of applying the framework. The leads currently meet with us on a monthly basis; that, of course, is an opportunity for us to make sure that everybody is on track and on the right path to the delivery of good standards. We will make sure that that continues as a means by which we can provide appropriate supervision, and intervention, where necessary. We are creating a group that will have responsibility for oversight of this at a Welsh Government level and, of course, we have the performance framework, which, in a sense, is the vehicle through which we can make sure that there is appropriate performance, driven by the regular report

[10] RoP, Public Accounts Committee, 8 October 2013, paragraph 40
[11] Wales Audit Office, Implementation of the National Framework for Continuing NHS Healthcare, paragraphs 1.42 – 1.46

> and the monthly reports on the kinds of things that we described earlier. So, I think that a fresh approach is needed, and we will introduce that—we are already introducing that—and develop more formality with it."[12]

21. The Committee also sought reassurance that intervention from the Welsh Government would be undertaken appropriately and when necessary and we were assured that it would.[13] The Committee were also assured such issues would be dealt with at the most senior of levels and were told that:

> "…there will be a facility, on an individual health board level, if particular issues arrive, for them to be taken through the accountability meetings that I have with each of the health boards, their chief executives and their colleagues. This merits interaction at a senior level. I think that one of the lessons from the past is that perhaps we have not got that level quite right."[14]

22. On this subject, the Committee queried whether, to date, there had been any need for Welsh Government intervention in any local health board. We were told that:

> "In the sense that we have detected variability, we have raised issues with particular health boards and asked them to pay attention to particular issues. The information that we get shows that there is variation in terms of clearance rates, and, clearly, with some, we have asked them to put more resources into place to develop greater leadership focus and to reassure us that they are moving to a position where they have the right capacity to meet demand. In the sense that that is intervention, yes, there has been."[15]

23. We welcome the approach outlined by the Welsh Government in terms of strengthening and improving leadership. We also acknowledge the measures being put in place to monitor leadership performance.

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[12] RoP, Public Accounts Committee, 8 October 2013, paragraph 127
[13] ibid, paragraph 130
[14] ibid, paragraph 135
[15] ibid, paragraph 144

Continuing Health Care Expenditure and Financial Pressures

24. The Auditor General's report shows that CHC expenditure and the number of CHC cases have reduced since the introduction of the framework.[16] The report also identifies a number of potential reasons for this, concluding that the extent to which the Framework itself has contibuted to the reductions is unclear.[17] We questioned the Welsh Government on the steps it has taken to ensure that the financial pressures on the NHS are not influencing CHC eligibility decisions.

25. The Director General informed us that:

> "I think that a number of things are guidance, and our requirement has been consistent and particularly clear, but this is a process that is based on individual needs, and there is a statutory context within which this applies. We have made it absolutely clear in our guidance. We also need to recognise that the assessment and approval, or otherwise, of a claim are made through a multidisciplinary, but predominantly clinically led, process. That then goes to another part of the system where there is a decision on adoption/commissioning. That cannot overturn the decision that the clinicians have made. They can ask for further information, but they cannot veto it, and the suggestion that they might do so on financial grounds, I certainly would not accept. Certainly, they could not do it."[18]

26. The Committee notes the assurances provided by the Director General that financial pressures on the NHS are not influencing CHC eligibility decisions.

Use of the Decision Support Tool and Cognition and Dementia Cases

27. The Auditor General's report highlighted the differences between the decision support tools used in Wales and England for cognition, with the result being that it may be more difficult for people with dementia to meet CHC criteria in Wales.[19] The report also identified that the decision

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[16] Wales Audit Office, Implementation of the National Framework for Continuing NHS Healthcare, paragraphs 1.23 – 1.33 and figure 5, page 25
[17] ibid, paragraphs 1.37 – 1.41
[18] RoP, 8 October 2013, paragraph 147
[19] Wales Audit Office, Implementation of the National Framework for Continuing NHS Healthcare, paragraphs 1.24 – 1.27

support tool can be used too prescriptively, and that professional judgement is not always brought to bear in such cases.[20]

28. We questioned Welsh Government Officials on whether people with dementia living in Wales have been disadvantaged as a result of the tool that was used in Wales being different to that used in England. We were told that:

> "The Wales Audit Office report was very clear and helpful to us. It clearly was the decision support tool that led to a distinction where Welsh citizens were disadvantaged. Our proposal is to remove that and to change that. The new decisions support tool will be based on the same level as is taking place in England. I think that will be welcomed by citizens and groups that are interested in making sure that citizens get the same rights and entitlements. This will open up opportunities for people suffering with dementia because our threshold will change in that regard. It will also enable us to have cross border standards that are equivalent rather than differential."[21]

29. The Committee is pleased to note the Welsh Government's intention to ensure greater consistency of the use of the decision support tool and the scoring between England and Wales. However, we are concerned that a new decision support tool would not apply retrospectively and there could be a sense of injustice for those who were scored on the previous decision support tool. This could lead to new retrospective claims.

We recommend that the Welsh Government assess the impact of amending the decision support tool upon those people scored under the previous decision support tool.

30. We share the concerns raised in the Auditor General's report by Health Board leads that multidisciplinary teams lack the confidence to make decisions around continuing health care and, as a result, are too reliant on the decision support tools and adding up the score as opposed to looking at the patients and their needs.[22]

31. The Committee questioned the Welsh Government on the prescriptive use of the decision support tool and were told that:

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[20] Wales Audit Office, Implementation of the National Framework for Continuing NHS Healthcare, paragraphs 2.42 – 2.43
[21] RoP, 8 October 2013, paragraph 97
[22] RoP, Public Accounts Committee, 8 October 2013, paragraph 102

> "It is sometimes about relying too much on a tool and a score. What we have proposed and created is a change to the decision support tool. We are very clear that, that is only a support mechanism – that is an enabler. It is professional judgement that is crucial. Therefore, in terms of the training, we will be putting on regional training. We will make sure that those professionals working across this field are given the skills."[23]

32. They added that:

> "We believe that the tools and the revisions to the tools will be helpful and will strengthen the position in Wales, and that will then enable the practitioners and the professionals involved in making the decisions to have a stronger base on which to make those decisions."[24]

We welcome the Welsh Government's commitment to the provision of training to practitioners and professionals in this area, and we recommend that the Welsh Government monitors progress to ensure that this leads to improvement.

Screening Tool

33. The Auditor General's report identifies inconsistencies in Wales in identifying whether someone needs to be assessed for CHC, and a number of benefits from the screening tool that is used in England[25]. These include greater consistency in deciding whether someone should be assessed for CHC; and providing health boards with a means of monitoring and gaining assurance that people are being dealt with fairly and consistently.

34. The Committee queried whether the Welsh Government had considered adopting a screening tool in Wales and were told that:

> "…in terms of getting that consistency across Wales we are introducing a screening tool. That screening tool will be helpful in capturing, for the first time, vulnerable groups that, perhaps, have often not been informed. So, for those citizens who have funded nursing care as part of their review process, one of the

[23] RoP, Public Accounts Committee, 8 October 2013, paragraph 103
[24] ibid, paragraph 108
[25] Wales Audit Office, Implementation of the National Framework for Continuing NHS Healthcare, paragraphs 1.21 – 1.23

proposals that we are bringing forward is that the screening tool will be used to see whether they should be assessed for continuing healthcare."[26]

35. We welcome the introduction of a screening tool in ensuring greater consistency across Wales.

Scrutiny Arrangements

36. The Auditor General's report also found inconsistencies in the scrutiny arrangements health boards have for individual cases that have been deemed eligible for CHC by multidisciplinary teams.[27] The report found that such arrangements do not cover cases deemed ineligible for CHC, and, in the absence of any peer review arrangements; there was a lack of assurance that the Framework is being applied consistently between Health Boards.

37. In expanding on this point in oral evidence, a representative of the Wales Audit Office told us that:

> "Currently, the scrutiny is very much around decisions that are made positively, in favour of somebody. When somebody is deemed eligible, health boards scrutinise that decision. There is no oversight of cases where no assessment has taken place, or where assessment has taken place and that person has been deemed ineligible. The screening tool provides a hook by which health boards can go back through their records and start a process of audit."[28]

38. The Committee considered whether there would be merit in facilitating peer review arrangements to improve consistency between health boards in relation to continuing healthcare eligibility decisions. We sought the views of the Wales Audit Office as to whether there were obstacles in introducing such arrangements. A Wales Audit Office representative explained that:

> "There are two big challenges with peer review. The first is a difference of opinion between the peer review team and the health board over a particular case. If there is a difference, it is

[26] RoP, Public Accounts Committee, 8 October 2013, paragraph 73
[27] Wales Audit Office, Implementation of the National Framework for Continuing NHS Healthcare, 13 June 2013, paragraphs 2.23
[28] RoP, Public Accounts Committee, 25 June 2013, paragraph 224

about who is right and who is wrong. That would need to be thought through, in terms of having a consistent set of peer reviewers, well supported and working in line with the Welsh Government. The other issue is that peer review would be very easy to pick up on cases that have had an eligibility decision made in favour of the individual; where somebody is deemed to be eligible; it is very easy to access those records. The problem that we had is that it is very difficult to track down cases that have been considered and rejected, or not considered in the first place. I would go back then to say that that is the importance of the screening tool: it would help peer reviewers to go back in to look at individual case files."[29]

39. With regards to peer review the Welsh Government informed us:

> "…in terms of challenge and peer review, a peer review process will be introduced to run alongside that [self-assessment tool for local health boards], where there will be local health boards that will be led by and facilitated by—and this is where the Welsh Government is taking this responsibility—the Welsh Government, to bring together and to look at and to critically analyse that information. They will have a responsibility then for publicising an annual report. So, in terms of getting a whole picture, and moving in terms of timescales and responsibility, we will have a very clear picture, and we will be leading and measuring their performance, and the performance framework."[30]

We note the Welsh Governments approach to ensuring that peer review processes are in place to run alongside the use of a self-assessment tool and recommend the Welsh Government monitor these processes to ensure they are achieving their intended outcome.

Engagement

40. The Auditor General's report highlights the mixed evidence on the extent to which individuals and their families are being involved in the

[29] RoP, Public Accounts Committee, 25 June 2013, paragraph 226
[30] RoP, Public Accounts Committee, 8 October 2013, paragraph 40

assessment process and inconsistent arrangements in gaining consent and assessing mental capacity.[31]

41. The Committee questioned Welsh Government Officials about the approach being taken to raise public awareness about eligibility and even the existence of CHC. We were told that:

> "That falls into this issue of communication in hospitals, with GPs. There is a question mark over whether it should be more general. It is quite a complex issue; I am not sure whether it would register at a time when people are in situations where it might become a possibility. Of course, the other big thing is to work with the third sector, which, as we know, has a tremendously important role and has contacts and networks into the communities where this might be an issue."[32]

42. The Committee were concerned about a seeming lack of a proactive approach and claims being based on individuals having the knowledge and capacity to make claims. We queried further the steps being taken to encourage more extensive engagement with people and their families or carers during the assessment process. We were told that:

> "First, the point that I would make is that, with a streamlined process, it is always easier if there is a single point rather than multiple points of interaction, so, a single coordinator who can organise the, at times, complicated process of interactions with healthcare professionals and local authorities and also be a single point of communication with the family or the individual. I think that that is important. Then, a step change in terms of communication, in terms of admission to hospital, when it becomes clear that longer term care may be needed, in terms of any meetings to make sure that people feel comfortable and not disempowered in any way by the meetings that they go to, and when there is an agreement—an agreed outcome—to the whole process. It is a matter of paying attention to that, and, through our training, making sure that we are sensitive to individual needs at a time that can be of significant anxiety and worry."[33]

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[31] Wales Audit Office, Implementation of the National Framework for Continuing NHS Healthcare, paragraphs 2.87 – 2.103
[32] RoP, Public Accounts Committee, 8 October 2013, paragraph 157
[33] RoP, 8 October 2013, paragraph 155

43. The Committee noted during its evidence gathering that many of those pursuing claims may be doing so in respect of family members who have passed away and a reasonable proportion of them will be elderly or vulnerable trying to pursue claims on their own. The Committee considered the potential for many of those people to be facing financial hardship as a result of the financial impact of these claims not being settled.

44. The Committee questioned whether there was any prioritisation in terms of the claims that are being dealt with. A Welsh Government Official clarified that a decision had been made to deal with cases in chronological order purely because of the volume that needed to be looked at.[34]

We are concerned that the claims are dealt with in a chronological order in accordance with the date on which they are received. We believe that this does not take into account the individual needs and circumstances of claimants. We recommend that Welsh Government give consideration to prioritising claims according to the circumstances of individuals and families.

We believe that there are a number of misgivings about the current approach to engaging individuals and their families in the assessment process. We recommend that a proactive approach is needed to ensure information is provided to those who need it enabling them to challenge decisions on eligibility. Such information should be clear and simple.

[34] RoP, 8 October 2013, paragraph 63

3. Retrospective Claims

Responsibility for dealing with Claims

45. The Auditor General's report includes findings relating to how retrospective claims are dealt with.[35] These claims relate to cases where someone believes they were eligible for CHC before the Framework came into force in 2010. These are being dealt with by a national project or by individual health boards depending upon the date the claim was submitted. Significant numbers of claims are being processed by both the national project and health boards.

46. The Committee queried the rationale between splitting the responsibility for retrospective claims between the national project and health boards. We were informed by a Welsh Government Official that:

> "The key date there is the publication of the framework in 2010. At that point there were cut offs in place on a national basis, whereby claims previous to 2003 had to be made, or that was the final chance that people had to make them. At that point, the decision taken was that the best way to handle what would necessarily be a fairly significant pool of claims – the cut off in a sense encouraged a significant cluster of claims – was to do it on an all-Wales basis by Powys, and that therefore was the justification for having a national approach to that retrospective grouping. The decision at that point was that all further claims would be done through the health boards individually."[36]

Retrospective claims being processed by the national project team

47. The Auditor General's report identifies that progress by the national project team has been limited and a significant number of claims remain to be processed.[37]

48. The report also recognises that additional resources have been made available by the Welsh Government to clear these claims and that monitoring of progress has been strengthened.[38]

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[35] Wales Audit Office, Implementation of the National Framework for Continuing NHS Healthcare, 13 June 2013, part 3
[36] RoP, Public Accounts Committee, 8 October 2013, paragraph 13
[37] Wales Audit Office, Implementation of the National Framework for Continuing Healthcare, paragraphs 3.17 – 3.20

49. Despite reassurances from the national project, the Auditor General still considers that there is a significant risk that the June 2014 deadline for clearing all claims will not be met. In particular, the Auditor General found that the national project has never had the full complement of required staff in post due to recruitment and retention problems.[39]

50. In oral evidence, the Auditor General informed us that:

> "The national project in particular has made only limited progress and, despite additional funding, it is my view that there remains a significant risk that a deadline of clearing all claims by June 2014 will not be met."[40]

51. In correspondence to the Committee, the Welsh Government provided information on the number of retrospective cases logged both before and since 2010 and cumulative data identifying the number of claims being processed, clearance levels and the number of challenges made to outcomes.

52. In respect of retrospective cases logged prior to/on 15 August 2010, which are being dealt with by the National Project, the letter states that:

> "Of the 1,983, claims to be processed, 600 were completed at July 2012, rising to 1,350 at October 2013. The proportion of claims cleared has therefore increased from 30% to 68% between July 2012 and October 2013."[41]

53. In contrast, Welsh Government Officials assured us that they were confident that claims being dealt with by the national project would be cleared by the target date of August 2014.

54. A Welsh Government Official explained that:

> "…we have had assurances from Powys, the health board that is taking responsibility for this, at the most senior level, which is fine, but we have also looked at the statistics. In a sense, we have looked at the run rates – the rates at which it is currently clearing the claims. That provides a sort of trajectory with headroom,

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[38] Wales Audit Office, Implementation of the National Framework for Continuing Healthcare, paragraphs 3.23 – 3.26
[39] ibid, paragraphs 3.27 and 3.28
[40] RoP, Public Accounts Committee, 25 June 2013, paragraph 138
[41] Written evidence, Director General, 22 October 2013

which means that Powys will actually complete its work at the current rate, which is not at a fairly stable level, by April. The gives some head room, and that will then allow the movement from approval through to clearance, which goes back to health boards, by June – except, we think, in the most exceptional of cases."[42]

55. He added that:

> "In terms of backlog…I think that it is well over 50% of the way there. As I say, its approval-to-clearance rate is now at a point that actually gives us reassurance. You have to look at the number outstanding and at how many it would need to clear each month. There is now a smooth path and the capacity is in place."[43]

56. Despite the assurances provided by the Welsh Government, we note that achievement of the June 2014 target will require an average clearance rate of 90 cases a month from here on in. This compares with an average clearance rate achieved so far of 50 cases a month.

57. We acknowledge that work remains on-going in terms of dealing with retrospective claims and welcome the Welsh Government's provision of additional resources to the national project to clear claims and to strengthen the monitoring of progress. However, given the current rate at which cases are being cleared and the risks to the recruitment and retention of staff described in the Auditor General's report, we share the Auditor Generals concern about the risk that the national project will not have cleared all retrospective claims by the June 2014 deadline.

We recommend that Welsh Government, based on progress made to date by the National Project in clearing claims, reviews whether staffing levels are adequate and gives consideration is to improving staff retention to meet the June 2014 deadline.

We recommend that the Welsh Government provide the Public Accounts Committee with an interim progress update on the clearance of claims in March 2014 and also provide further update in September 2014 following the June 2014 deadline.

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[42] RoP, Public Accounts Committee, 8 October 2013, paragraph 5
[43] RoP, ibid, paragraph 11

We recommend that the National Project is not disbanded until the backlog of claims are cleared.

Retrospective claims being processed by local health boards

58. The Auditor General's report states that whilst the retrospective claims being dealt with by the national project have had a deadline set for completion, there is no deadline for those claims that are being processed by local health boards.[44] The report also found that health boards have made little progress in clearing retrospective claims.[45]

59. With regard to claims received post 15 August 2010, which are being dealt with by individual health boards, correspondence from the Welsh Government providing updated information stated that:

> "At July 2012, 1,555 claims had been received, of which 226, claims were completed (a 15% clearance level). At September 2013 a total of 1,572 claims had been received. The total claims completed at the end of September 2013 were 339 (a 22% clearance level)."

60. During our evidence gathering we sought an explanation from Welsh Government as to why no timescales had been set for retrospective claims being dealt with by local health boards. We were informed by the Director General that:

> "I think that there should be, and we will be introducing one. I think that it is entirely reasonable that, as part of the revised framework – and the performance management arrangement that is introduced within that – we make it absolutely clear what the time frames are for the removal, or the handling, of all claims within the system."[46]

61. In written evidence,[47] we were informed that the Welsh Government has established a Task & Finish group to look at the retrospective claims process. That Group proposed a rolling cut-off date for those post 2010 retrospective claims managed by individual Local Health Boards. Under these proposals, claims relating to the period between1 April 2003 and

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[44] Wales Audit Office, Implementation of the National Framework for Continuing Healthcare, paragraph 3.12
[45] ibid, paragraph 3.37 and figure 18, page 70
[46] RoP, 8 October 2013, paragraph 35
[47] PAC(4)-26-13(p1), 8 October 2013

30 June 2013 will be submitted for consideration by 30 June 2014 and an annual rolling cut-off date will be implemented for claims received after that date, together with a requirement that they be completed within two years.

We welcome the Welsh Government's consideration of aiming to put a closure point on claims within a maximum of two years from when a claim is received. We believe that all claims should be dealt with within a maximum of two years. We recommend that an update on the outcome of this consideration is provided to the Public Accounts Committee on conclusion of this work.

62. Given the concerns raised in Auditor General's report, that the national project has never had the full complement of required staff in post due to recruitment and retention problems, we queried whether the Welsh Government is satisfied that there is sufficient staffing at local health boards to clear the backlog for which they are responsible.[48]

63. The Director General explained that:

> "…I think that a more resilient way to deal with aspects of this would be to utilise a national approach, rather than a local approach. There is more resilience in having 30 people in one group than there is in having six lots of four or five people, because a loss of one can, obviously, have a disproportionate impact. Therefore, the answer to your question is that I think that there is more risk in the way that we are set up, hence why I think that we would be very wise to pursue the benefits of a national approach."[49]

64. In response to the Director General's answer we sought further clarity of whether the Welsh Government was going to be dealing with the backlog of claims or local health boards. The Director General explained that:

> "The issue is whether they [local health boards] do so on a collective basis, as the health board in Powys is doing it – albeit with our oversight and, to an extent, our resourcing. As we have said in our evidence paper, we provide an injection of moneys to

[48] Wales Audit Office, Implementation of the National Framework for Continuing Healthcare, paragraph 40
[49] RoP, Public Accounts Committee, 8 October 2013, paragraph 37

provide to it with the ability to create the appropriate resources. It will be the health boards doing it. The issue post-June is whether there is simply a situation where each health board does this on its own, in terms of real time and retrospective cases, or whether we build on the benefits of having a single approach across Wales for some elements of that. I think that that is where we are heading."[50]

We are concerned about the situation post June 2014 given the lack of clarity from Welsh Government as to whether health boards will be responsible for clearing claims or a single approach across Wales will be adopted. We recommend that the Welsh Government either develops with a coherent plan for clearing the backlog of cases, or gives further consideration to whether the National Board should deal with claims which health boards are currently responsible for post June 2014, and make clear its intentions regarding this.

Future retrospective claims and on-going challenges to eligibility decisions

65. The Auditor General's report confirms that the Welsh Government intends to introduce a rolling cut-off date for future retrospective claims and that, on its introduction, this may result in a large number of claims as the first cut-off will need to cover claim periods dating back many years.[51]

66. We sought clarification from the Welsh Government on this matter and queried the additional pressure that could arise from new claims emerging. The Director General informed us that:

> "They [new claims] will still pop up, which is one reason why I come on to this. We are currently considering the benefits of having some kind of rolling cut-off. At some point, it may be helpful just to create a bit of rigour in the system, to say that there will be a point at which claims that relate to a period prior to this need to be made by such and such a time, so that it is more manageable."

67. We welcome the Welsh Government's intention to introduce a rolling cut-off date for future retrospective claims and are satisfied that

[50] RoP, Public Accounts Committee, 8 October 2013, paragraph 39
[51] Wales Audit Office, Implementation of the National Framework for Continuing Healthcare, paragraph 3.32

the Welsh Government will take into account the potential additional pressure that could arise from new claims.

Witnesses

The following witnesses provided oral evidence to the Committee on the dates noted below. Transcripts of all oral evidence sessions can be viewed in full at:
www.senedd.assemblywales.org/mgIssueHistoryHome.aspx?lld=1311

25 June 2013

Huw Vaughan Thomas	Auditor General for Wales
Paul Dimblebee	Group Director, Wales Audit Office
Steve Ashcroft	Performance Audit Manager

8 October 2013

David Sissling	Director General for Health & Social Services/Chief Executive, NHS Wales
Albert Heaney	Director of Social Services, Welsh Government
Alistair Davey	Deputy Director Social Services Policy and Strategy, Welsh Government

List of written evidence

The following people and organisations provided written evidence to the Committee. All written evidence can be viewed in full at: www.senedd.assemblywales.org/ieListMeetings.aspx?CommitteeId=230

Organisation	*Reference*
David Sissling, Director General for Health & Social Services/Chief Executive, NHS Wales	PAC(4)-26-13(p1) (8 Oct 2013)
David Sissling, Director General for Health & Social Services/Chief Executive, NHS Wales	PAC(4)-28-13 (ptn1) (5 Nov 2013)