

## **ADULT CARE AND WELL BEING OVERVIEW AND SCRUTINY PANEL 14 JANUARY 2022**

### **FAIR AND TRANSPARENT CARE PROJECT**

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#### **Summary**

1. The Adult Care and Well Being Overview and Scrutiny Panel is to receive a progress report of the review of the funding arrangements between Worcestershire County Council (the Council) and Herefordshire and Worcestershire Clinical Commissioning Group (the CCG).
2. This is part of the Panel's work programme and follows the previous discussion with the Panel on 15 March 2021, details of which are available here: [web link to agenda and minutes](#)
3. The Cabinet Member with Responsibility for Adult Social Care and Senior Officers from the People Directorate have been invited to the meeting.

#### **Background**

4. In September 2020, the Council initiated a project called Fair and Transparent Care. It was supported by a specialist organisation, Liaison Care, to:
  - a) Understand fully the current position through a series of engagement sessions with managers
  - b) Review live sample cases, using relevant documents for 170 service users who are either funded fully by the Council, jointly funded by both the Council and the CCG or in receipt of S117 funding (aftercare funding designed to cover the cost of meeting all a person's mental health related support needs)
  - c) Use the findings to agree new and effective ways of working with the CCG to ensure there is a fair, equitable and transparent approach to funding of Continuing Health Care (CHC) (a package of care for people who are not in hospital and have been assessed as having a primary health need), Joint Packages and S117 cases
  - d) Use the findings to ensure people regardless of user group or age, from birth, have fair and transparent funding through the correct route
  - e) Use the findings to agree simple methods of apportioning costs for joint funding arrangements in the future
  - f) Ensure best practice in all areas in line with national and legal frameworks.

#### Continuing Health Care (CHC) Access and Eligibility

5. In order to determine whether an adult has a primary health need, a detailed assessment and decision-making process must be followed, as set out in the National Framework for Continuing Health Care (revised 2018).

6. Where an adult has a primary health need, the NHS is responsible for commissioning a care package that meets the individual's health *and* social care needs. If a person's health is deteriorating rapidly, the individual should be considered for the Fast Track pathway so that appropriate care and support can be put in place by the NHS (fully funded and usually within 48 hours).

**7. The project aim was to have a legally compliant system across all ages and user groups in order for people to access CHC funding (including Fast Track and Continuing Care) in a timely manner with minimal disputes.**

#### Joint Funding

8. Those who have a learning disability, physical disability, older people, and people with mental health needs who have been assessed as *not* CHC eligible, have a right to be considered for joint funding if they have health and social care needs, and should only contribute to, or pay for their social care needs to be met. Any identified health needs should be funded by health and be free of charge to the individual.

**9. The project aim was to ensure that there is an agreed methodology between the Council and the CCG to identify needs, determine which are health, and which are social care and how these are funded going forward using best practice guidance.**

10. Individuals who have been kept in hospital under the Mental Health Act 1983 are entitled to free help and support after they leave hospital under section 117 of the Mental Health Act 1983. This is often referred to as 'section 117 aftercare'. Aftercare is the help you will get in the community after you leave hospital. This can encompass a variety of different types of support and assistance such as health care, social care and supported accommodation. Section 117 of the Mental Health Act 1983 says that aftercare services are services which are intended to:

- Meet a need that arises from or relates to a mental health problem; and
- Reduce the risk of a mental condition getting worse, and the person having to go back to hospital.

11. The Council and the CCG have historically apportioned funding at a 50%:50% ratio for people with Mental Health needs and for the costs for people with learning disabilities, the Council has picked up 100% of costs.

**12. The project aim was to ensure there is a fair system that reflects best practice and accurately reflects the appropriate funding contributions for all groups of people from each organisation.**

13. Liaison Care also carried out some initial high-level scoping of the position on Continuing Care for children in Worcestershire. It was agreed in June 2021 with Liaison Care and Worcestershire Children's First (WCF) that any further work in relation to this would be led and commissioned by WCF and as such further comment or analysis on Continuing Care for children is not reported here.

14. To establish an understanding of the operational process and challenges outlined by the Council, Liaison Care undertook an analysis of data from a total of 170 cases, including documentation submitted by the Council. They reviewed and assessed:

- 90 cases currently funded through section 117. 32 were adults with a learning disability, all but one had health needs that were not being funded by the CCG and 10 of the 90 cases were low-cost packages. This was to sense check and demonstrated very little deviation from the other cases that were assessed
- 80 high-cost package cases. Of these 80 cases, only 6 were currently receiving a contribution from the CCG. The review identified that the remaining 74 cases (92.5%) had health needs that could legitimately be funded as part of a joint funding arrangement with the CCG if the needs were not being met via other health services.

15. Liaison Care also facilitated 3 focus sessions with operational managers from the Council representing all service areas. The sessions covered the following areas:

- CHC Processes
- Challenges and Issues
- Partnership Working.

A report on the findings was provided to the Council on 14 April 2021 and formed the basis of an action plan for the project group.

## **Progress to Date**

### Continuing Health Care (CHC)

16. The first chart in Appendix 1 gives the data for Quarter 2 in 2021/22 in the NHS comparator group for the number of standard CHC patients eligible per 50k of the population and Fast Track eligibility. This is the Benchmarking group the CCG sit within and Herefordshire and Worcestershire are 26.4. The Midlands average for Quarter 2 in 2021/22 is 36.6 per 50k population, whereas the England average is 34.97.

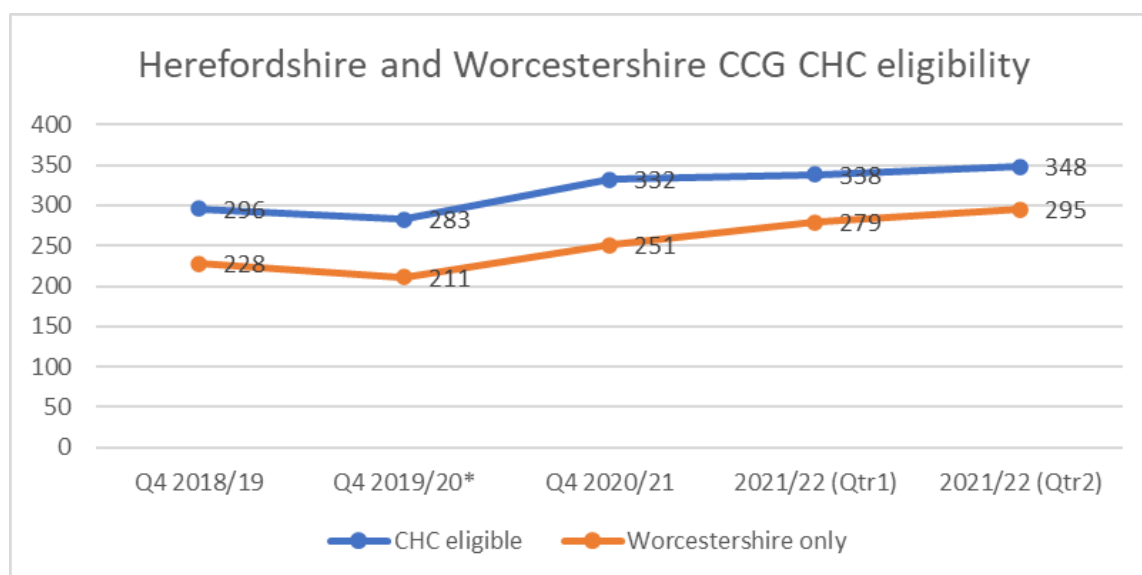
17. Chart two in Appendix 1 shows the comparator group for fast-track eligible patients per 50k of the population. It should be noted though that the CCG Fast Track is 29.09 per 50k population, the Midlands average is 24.18 and the England average is 21.24. As Fast Track cases are reviewed, standard CHC numbers may increase as coding changes.

18. The CCG has provided the data below, however, it is important to note that CHC assessments were suspended on 19 March 2020 due to HM Government Hospital Discharge Procedures. This will have had an impact on the performance data available and will have created periods with little activity and then significant spikes. Activity was resumed on 1 September 2020.

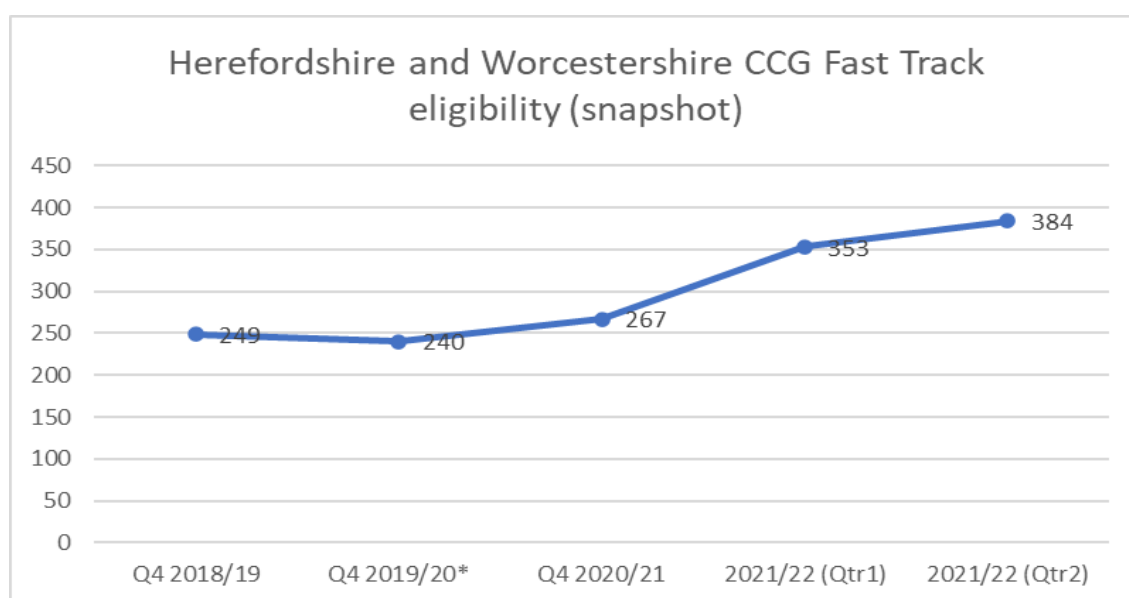
19. In summary, the graphs below show improvements in the following area:

- Numbers CHC eligible

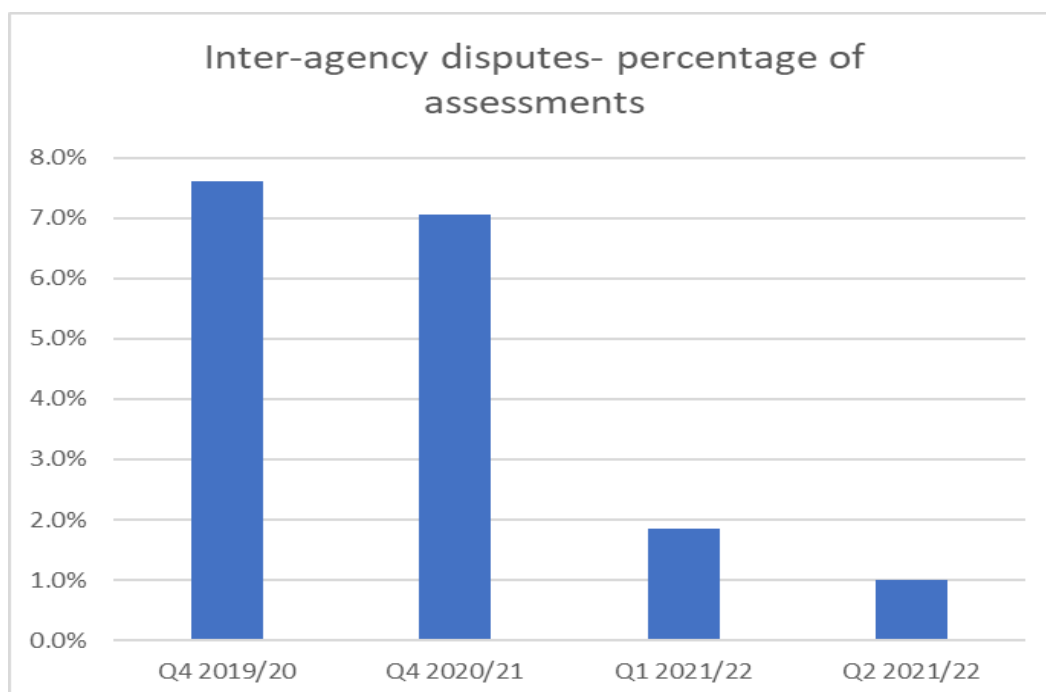
- Fast Track eligible
- Significant reduction in inter-agency disputes (at the time of writing, there were just 5 outstanding, and all were at Level 1, Lowest Level)



	Q4 2018/19	Q4 2019/20*	Q4 2020/21	2021/22 (Qtr1)	2021/22 (Qtr2)
<b>CHC eligible</b>	296	283	332	338	348
<b>Worcestershire only</b>	228	211	251	279	295



	Q4 2018/19	Q4 2019/20*	Q4 2020/21	2021/22 (Qtr1)	2021/22 (Qtr2)
<b>Fast Track</b>	249	240	267	353	384



	Q4 2019/20	Q4 2020/21	Q1 2021/22	Q2 2021/22
Inter-agency disputes	7.6%	7.1%	1.9%	1.0%

The national data link, for further information is

[www.england.nhs.uk/statistics/statistical-work-areas/nhs-chc-fnc/](http://www.england.nhs.uk/statistics/statistical-work-areas/nhs-chc-fnc/)

20. The Council continues to invest in social workers who specialise in CHC and support multi-disciplinary assessments, alongside staff in other social work teams. The data below shows an increase of 6 clients with CHC funding that the Council recharges for currently, and we are aware of several new cases so we anticipate these will rise by the end of the financial year.

	Sep 20/21	Dec 21/22
Full CHC (on-going)	19	25

These are the on-going packages and there are an additional 4 retrospective cases (one off) through resolving historical disputes).

### Joint Funding

21. The service users identified by Liaison Care have been reviewed (or reviews are in progress) and considered for CHC funding or joint funding where appropriate.

Note: not all service users were the responsibility of the CCG in Worcestershire and the Council has therefore worked with other out of area CCGs to carry out reviews where appropriate.

22. Where people have been found not eligible for CHC, the Council has pursued joint funding arrangements where the evidence suggests there remains unmet health needs. The data below shows an increase of 16 joint funding packages of care that are ongoing.

	Sep 20/21	Dec 21/22
Joint funded	36	52

## Financial Position

23. Prior to this exercise, the Council budgeted for c£1.7m per annum for income related to CHC. As part of the budget setting process for 2021/22, the department set a target to increase the level of income receivable. Since April 2021, the Council has achieved £2.8m income against this budget i.e., an additional £1.1m recurrent funding. An additional £1.6m one-off income has also been achieved for backdated claims/recharges, from reducing and resolving disputes as per the chart above. It is expected that further income will be due from several new cases, with forecasted additional income in excess of £0.5m. This additional income receivable is supporting the department meeting the increased income budgeted for in 2021/22.

## Section 117 Funding

24. An agreement has been made with the CCG that all clients under S117 of the Mental Health Act 1983 (Mental Health and Learning Disabilities) will be funded. This will be a 60:40 split from 2021/22 onwards with WCC picking up 60% and CCG 40% for all clients compared with the previous 50:50 split for Mental Health clients only. This had a zero financial impact at the time of the agreement for the CCG and Council, however it addresses the inequitable historic funding arrangement and enables robust and consistent funding arrangements going forward. This is because the CCG now pick up 40% funding for all S117 clients (previously contributed nil towards Learning Disabilities). The review also identified those with Mental Health needs had higher contributions from the CCG (50%) than the actual identified health needs. Going forward this may change as we see growth in mental health clients.

25. A S117 working group will ensure mechanisms are in place across both organisations to ensure there are regular reviews and people are discharged when appropriate. The joint S117 Policy has been updated and is due for ratification by Cabinet in February 2022.

26. Further work is underway to undertake a needs analysis for commissioned services for people with mental health and learning disabilities, with investment in a specialist broker role to work alongside commissioners to source high quality care at best value and identify market gaps.

27. The Council is also working with partners to review the process to ensure all those in nursing homes have assessments for Funded Nursing Care (FNC), including those on S117 who live in a nursing home, in line with legislation.

## **Established CHC Partnership Board**

28. The Council, Herefordshire Council and the CCG have implemented a CHC Partnership Board to address several operational and process issues that needed addressing, including new, robust policies and operational procedures, workforce development and potential for joint commissioning arrangements.

29. In partnership, there has been a development of:

- A joint CCG and Council approach for future customers of CHC, based on the National Framework. The new CHC policy is due for ratification by Cabinet in March 2022
- A joint CCG and Council approach for people with identified health and social care needs based on the National Framework, with decisions being made by the Multi-Disciplinary Team, including a deep dive by senior managers into 8 cases
- A joint training programme to ensure assessments are carried out to an excellent standard to ensure people receive the right funding
- A commitment to jointly review and agree short-term joint funding (where appropriate) in exceptional circumstances where a person requires high levels of one-to-one support due to behaviours that challenge. Consideration of a system wide approach to one-to-one funding will follow
- A joint stakeholder group with multi agency input across Herefordshire and Worcestershire through a series of workstreams, attended by partners across all organisations to improve all areas identified within the Liaison Care report. This includes improvements to communications and information, advice for residents and will encompass input from Healthwatch, Advocacy, Patient, and Carer representatives to improve the CCG website, leaflets, letters etc
- The Council and CCG have agreed CHC Advocacy funding via the S75 agreement through joint working with Local Authority commissioners. The CCG has a project which started on 1 April 2021 to audit each nursing home to ensure all patients eligible are in receipt of FNC. Phase 2 of the project will be to review FNC referral processes, working jointly with the Council and Herefordshire Council
- Key Performance Indicators (KPIs) – the CCG is one of the top CCGs in the Midlands for achievement of this and the Midlands is the top performer in the Country.

## **Equality and Diversity Implications**

30. A joint impact assessment (JIA) screening has been carried out in respect of this project.

## **Purpose of the Meeting**

31. Members are invited to consider and comment on the information discussed and agree:

- whether any further information or scrutiny work is required at this time
- whether there are any comments to highlight to the relevant Cabinet Member.

## **Supporting Information**

Appendix 1 – Graphs depicting:

- NHSE Cluster 1 comparator group for number of Standard CHC patients eligible per 50k population (Quarter 2 2021/22)
- NHSE Cluster 1 comparator group for number of Fast Track eligible patients per 50k population (open as at end of Quarter 2 2021/22)

## **Contact Points**

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## **Background Information**

In the opinion of the Proper Officer (in this case the Assistant Director for Legal and Governance), the following are the background papers relating to the subject matter of this report:

- Agenda and Minutes of the Adult Care and Well Being Overview and Scrutiny Panel on 15 March 2021 [weblink to agenda and minutes](#)