

NWSSP Legal and Risk Services

Scheme for General Medical Practice Indemnity (GMPI) Guidelines

The implementation of Appendix B is subject to the communication in the [Sub Appendix to Appendix B](#) which was issued on 9 December 2020

Issue Date: 8 December 2020



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Introduction

In 2018 the Welsh Government decided to establish a discretionary state-backed scheme of indemnity provision for General Practitioners on Welsh Medical Performers Lists, their staff and those engaged by the GP practice (hereafter “General Medical Practices”) from 1 April 2019. The scheme will be known as the Scheme for General Medical Practice Indemnity (GMPI).

Please see [Appendix A](#) – **GMPI Guidance Notes** and [Appendix B](#) – **Requirements for the use of the All Wales Locum Register (Applicable to General Medical Practitioners engaged to work Locum Shifts)**.

NHS Wales Shared Services Partnership Legal and Risk Services (NWSSP-L&R) has been commissioned to manage the scheme, utilising and expanding upon the existing skills of NWSSP - L&R in managing secondary care related clinical negligence claims pursuant to the Clinical Negligence Scheme for NHS Trusts and Local Health Boards (Administration) (Wales) Directions 2019 and The National Health Service (Clinical Negligence Scheme) (Wales) Regulations 2019 (hereafter “Scheme Regulations”).

The main change for General Medical Practices is that in relation to incidents occurring on or after 1 April 2019, the Health Boards in Wales will provide an indemnity arrangement and will be the named Defendant for clinical negligence litigation rather than the General Medical Practices. NWSSP - L&R will act on behalf of and seek instructions from the Health Boards in relation to the litigation and will seek evidence and views on the proposed strategy from General Medical Practices. Although the Health Boards will

be the client for the purpose of the litigation, the views of all individuals involved will be taken seriously and they will be treated fairly and reasonably.

This document describes NWSSP - L&R's main policy and related processes for delivering the scheme. It must be read in the context of and subject to the legislative provisions and policies issued by the Welsh Ministers in the exercise of their powers to create the scheme under the NHS (Wales) Act 2006. It includes operational protocols which outline the relationships between NWSSP - L&R and key stakeholder groups. These include General Medical Practices, Health Boards, Medical Defence Organisations and Welsh Government.

Who is covered?

The scheme will include the provision of guidance and support for General Medical Practices in Wales and their employed or contracted staff, for actual or potential clinical negligence litigation arising from the provision of NHS Primary Medical Services. Some aspects of GP work will not be covered by the scheme, for which membership of a Medical Defence Organisation ("MDO") will remain necessary. Examples of such 'out-of-scope' activity will include private work, inquests, disciplinary issues, issues with the GMC or other Regulators and any non-clinical elements of Ombudsman referrals (see p.32-33).

The Scheme Regulations set out the scope of the scheme, namely "primary medical services" which are defined as health services provided under a contract, arrangement or agreement made under or by virtue of the following sections of the National Health Service (Wales) Act 2006:

- (a) section 41(2) (primary medical services);
- (b) section 42(1) (general medical services contracts);
- (c) section 50 (arrangements by Local Health Boards for the provision of primary medical services).

There is an All Wales Locum Register ('AWLR') for Wales which GP locums must join in order to be captured by GMPI. There are specific requirements with which GP locums must comply in order to benefit from GMPI and these are contained in [Appendix B](#).

1. First contact and triage

NWSSP - L&R will be the first point of contact for a General Medical Practice when a matter arises that could proceed to clinical negligence litigation. This may be obvious from the outset, for example receiving a formal solicitor's letter indicating a clinical negligence claim is being investigated or pursued, or the service of court proceedings. It may be less obvious, such as the occurrence of harm from a significant adverse event, an unexpected outcome, a delayed diagnosis, or a request from solicitors for medical records. Complaints about the attitude or conduct of staff, disciplinary or regulatory issues will almost certainly not be 'in scope' and should be referred to the relevant MDO.

Box A identifies a non-exhaustive list of issues that would be in scope.

Box B identifies a non-exhaustive list of issues that are unlikely to be in scope

Box A In Scope

NHS "primary medical services" (as defined on p.3) involving:

- Clinical Negligence Claim
- Possible Clinical Negligence Claim
- Putting Things Right clinical concern
- PSOW (Ombudsman) clinical issue

Box B Out of Scope

- Concerns/PSOW (Ombudsman) Issues (non-clinical)
- Acting for GPs as interested parties in inquests
- Employers, Occupiers or Public Liability
- Regulator (e.g. GMC/NMC/HPC) Referrals and Hearings
- Regulatory disputes (e.g. medical performers list)
- Criminal Proceedings
- Range of non-clinical legal problems that GP's face in practice (e.g. staff issues which BMA may support, data protection/GDPR issues)

Triage

General Medical Practices that become aware of an issue that may be in scope should contact NWSSP - L&R's dedicated GMPI Team.

- **GMPI Helpline** – 029 2090 5454 during standard business hours
9.00am – 5.00pm Monday - Friday (excluding bank holidays)
- **Email** - GMPI@wales.nhs.uk

Web pages about the scheme can be accessed via our main website here:

<https://nwssp.nhs.wales/ourservices/legal-risk-services/areas-of-practice/general-medical-practice-indemnity-gmpi/>

It is anticipated that in most cases, General Practitioners will have also been in touch with their MDO. If not, they are being encouraged to do so, because they may need assistance with other matters arising from the same incident.

See also [Section 12 Interaction with Defence Organisations](#) for more information.

NWSSP - L&R's process for managing clinical negligence claims is set out below:

- Step 1: General Medical Practice (or occasionally the Health Board) informs NWSSP - L&R of a potential clinical negligence claim

[Appendix A – GMPI Guidance Notes](#) sets out detailed guidance as to when and how a matter should be reported to NWSSP - L&R and

what happens next.

There are specific timeframes for General Medical Practices to report to NWSSP - L&R depending on the situation. For example, a demand for compensation should be reported to NWSSP - L&R within 24 hours of receipt. Failure to do so could prejudice the ability to successfully manage the claim. Compliance with time limits gives NWSSP - L&R the best possible opportunity to protect the General Medical Practice's position and ensure that deadlines are met.

When reporting a matter to NWSSP - L&R, General Medical Practices should ensure that documents are sent via one of the following routes:

- Secure NHS email account;
- For a non-NHS email account, please ensure documents such as the Contact and Information Form which contains confidential patient data are encrypted [password protected];
- NWSSP - L&R secure web portal [internet access required], please contact the NWSSP - L&R team to request access;
- The NHS Wales Secure File Sharing Portal (also known as MOVEit).

More detailed guidance is available in [Appendix A](#).

NWSSP - L&R may complete a pro forma, [GMPI Contact & Information Form](#) so far as possible following discussion with General Medical Practices, see [Appendix C](#). Or if preferred the person requesting support may complete the form, (also available on the NWSSP - L&R website [here](#)) and send to GMPI@wales.nhs.uk.

- NWSSP - L&R will verify that the matter reported falls within the scope of the scheme and will aim to contact the General Medical Practice by

email or telephone within 3 standard business days of receipt of relevant information required or as agreed to confirm the position.

- Step 2: If a claim is received which is 'in scope', NWSSP - L&R informs the Local Health Board Patient Experience/Putting Things Right Team of the claim.
- Step 3: NWSSP - L&R staff liaise with the General Medical Practice and the Local Health Board Patient Experience/Putting Things Right Team for assistance in obtaining relevant details.
- Step 4: Once NWSSP - L&R have obtained all information necessary from the General Medical Practice/Local Health Board Patient Experience/Putting Things Right Team, a decision on indemnity will be made by NWSSP – L&R in consultation with the Health Board.

NWSSP - L&R will aim to inform the General Medical Practice within 10 standard business days of receipt of relevant information or as agreed of:

- The decision on indemnity; and
- The next steps.
- Step 5: Once indemnity has been confirmed, NWSSP - L&R assigns the matter internally to a legal case handler for investigation and claims management. NWSSP - L&R's legal case handler will advise the Health Board and the General Medical Practice whether the claim can be dealt with under Putting Things Right ([see Section 3](#)) or via the claims process ([see Section 4](#)).

The scheme is discretionary and therefore a decision about indemnity is required in every case. It is envisaged that a refusal would rarely happen. Each case will turn on its own facts, but by way of example only, scenarios in which a decision might be made not to indemnify include:

1. A significant history of the General Medical Practice or practitioner failing to learn lessons from previous incidents, complaints or claims;
2. A significant and costly previous claims history on the part of a General Medical Practitioner;
3. An unacceptably long period of delay by the General Medical Practice in notifying NWSSP - L&R or the Health Board of a claim, that prejudices the ability to manage claims effectively and efficiently;
4. A previous history or current failure by the General Medical Practice to engage with the Health Board or NWSSP - L&R in the litigation process which prejudices the ability to manage claims effectively and efficiently;
5. An admission of liability has been made without first obtaining written consent from NWSSP – L&R (in accordance with paragraph 15(1)(a) of the Scheme Regulations);
6. Liability has been determined by a court in proceedings conducted by, or on behalf of, the General Medical Practice, otherwise than in consultation with NWSSP - L&R (in accordance with paragraph 15(1)(b) of the Scheme Regulations);

7. The General Medical Practice has not complied with a condition imposed by NWSSP - L&R in relation to a claim (in accordance with paragraph 15(1)(c) the Scheme Regulations);
8. A payment falls to be made by the General Medical Practice and, without first obtaining written consent from NWSSP - L&R, General Medical Practice agrees-
 - To be bound by the determination of any person or body as to the making of a payment in respect of a relevant liability to which the Scheme applies, or
 - To make any other payment in respect of the relevant liability, otherwise than in the course of legal proceedings or agrees to make a payment in consequence of a settlement of legal proceedings (in accordance with paragraph 15(1)(d)(i) and (ii) of the Scheme Regulations);
9. The payment would be an amount less than any amount specified by NWSSP – L&R as being the minimum amount payable under the Scheme in respect of a relevant liability (there is currently no minimum amount) (in accordance with paragraph 15(1)(e) of the Scheme Regulations);
10. The liability of a primary medical services provider which was either incurred or falls to be met was included in a notification to the Welsh Ministers by the Local Health Board, such notification being a list of primary medical services providers whose qualifying liabilities are not to be covered by the Scheme for the membership

year (in accordance with paragraphs 15(1)(f) and 15(2)(b) of the Scheme Regulations;

11. If a General Medical Practice engages any locum for the delivery of Primary Medical Services under the GMS contract, the GP Locum is required to comply with [Appendix B](#).

Nothing in the Scheme is intended to contradict other legal duties or professional obligations to which General Medical Practices and their staff may be subject. Furthermore, indemnity will not be withheld because a practitioner has taken reasonable action to comply with their ethical, professional or statutory obligations.

Any decision not to indemnify will be made by NWSSP - L&R in consultation with the Health Board. The General Medical Practice may appeal in writing to NWSSP - L&R within 7 days of receiving notification of a decision not to indemnify. Any appeal will be heard within 14 days of receipt of the appeal notice, by a panel consisting of the Director of NWSSP - L&R and both the relevant Health Board's Executive Leads for Primary Care and Legal Services or their deputies.

NWSSP - L&R will aim to keep the Health Board informed of progress at least every 3 months or as agreed and whenever there are key developments. NWSSP-L&R will also aim to update the General Medical Practice at key stages.

- Step 6: NWSSP - L&R will seek views on the proposed strategy from the General Medical Practice and will seek instructions from the Health Board before any admissions of liability or offers of settlement are made.

- Step 7: NWSSP - L&R submits claim to Wales Risk Pool for scrutiny and authority to reimburse.

2. Managing complaints under PTR

In Wales, all concerns (any complaint or notification of an incident concerning patient safety) are managed under Putting Things Right (PTR).

General Medical Practices will already have procedures and processes in place for dealing with a PTR Concern. Those procedures will be based upon The National Health Service (Concerns, Complaints and Redress Arrangements) Wales Regulations 2011 and the "Putting Things Right" Guidance Version 3 (November 2013).

Further information is available on the Health in Wales website:

[PTR Regulations](#)

[NHS Wales PTR Guidance](#)

From 1 April 2019 General Medical Practices are expected to continue to deal with and investigate concerns in accordance with the PTR process. The General Medical Practice may continue to ask the Health Board for assistance.

General Medical Practices may seek guidance and assistance from their MDO about complaints. Where a complaint is likely to fall 'in scope' NWSSP-L&R will be able to assist. For example, NWSSP - L&R may review a draft complaint response. NWSSP - L&R do not require the General Medical Practice to contact NWSSP - L&R in relation to routine complaints, however where the patient or relative is complaining that the treatment received from the General Medical Practice has caused "severe harm" (see p.38 of [Appendix A](#) for examples of what might constitute severe

harm) or death or is particularly complex, this should be notified to NWSSP-L&R in accordance with the reporting timeframes set out in Appendix A.

The General Medical Practice **must** contact NWSSP- L&R before issuing any Putting Things Right / complaint / Public Services Ombudsman for Wales response letter which could reasonably be interpreted as making an admission of liability (including any admission of breach of duty alone) or holding a meeting or taking any step which could lead to such an outcome.

Nothing in the Scheme is intended to contradict other legal duties or professional obligations to which General Medical Practices and their staff may be subject. Furthermore, indemnity will not be withheld because a practitioner has taken reasonable action to comply with their ethical, professional or statutory obligations

The General Medical Practice may also require advice from their relevant Medical Defence Organisation (MDO). For example, if there is an inquest in addition to a complaint or if there are potential regulatory issues. See [Interaction with Defence Organisations](#).

Non clinical complaints (for example a complaint that a staff member was rude to a patient) are not captured by GMPI.

3. Using PTR to Manage Claims

Whilst General Medical Practices are subject to the requirements under the PTR Regulations, there is no obligation on General Medical Practices to deal with claims for financial compensation under the PTR regime. However, under GMPI, there may be circumstances in which a claim for financial compensation is valued at £25,000 or less (excluding CRU, NHS Charges and costs). NWSSP - L&R will consider whether it is appropriate to offer to engage in the Redress Process on a voluntary basis for such claims.

Further information on the PTR Regulations can be found at [Section 2 Managing Complaints Under PTR](#). The main advantages of engaging the PTR/Redress Process is that the claim can be resolved more quickly and Claimant's costs are limited to fixed costs (as opposed to costs on the standard basis if a civil claim is pursued).

Fixed recoverable costs are currently being considered for clinical negligence litigation in England and Wales. This document will be updated once a regime is published.

4. Managing Litigation

This protocol applies to claims for financial compensation relating to alleged harm suffered where:

- The claim is valued at over £25,000 (excluding CRU, NHS Charges and costs); or
- The claim is valued at less than £25,000 but the claimant will not engage in or it is unsuitable for the PTR/Redress Process.

NWSSP - L&R will make decisions about strategy in the context of the evidence (e.g. witness statement, health records and trial prospects), taking into account the views of the Health Board and the General Medical Practice and any statutory Duty of Candour which is enacted to accompany the provisions under PTR.

NWSSP - L&R will aim to keep the Health Board informed of progress at least every 3 months or as agreed and when there are key developments.

NWSSP - L&R will also aim to update the General Medical Practice at key stages.

If a payment of over £1million is required at any stage of a claim (including damages, CRU, NHS charges and costs), NWSSP - L&R is required to seek consent from Welsh Government (as well as the Health Board).

If cross border issues arise, please refer to [Section 13 Cross Border](#).

5. The Reimbursement Process

Where a settlement is negotiated or an adverse judgment is handed down at Trial, the Health Board will pay the damages and costs due to the claimant.

The Health Board will seek reimbursement of the monies paid from the Welsh Risk Pool (WRP).

To do this, NWSSP - L&R will gain relevant information from the General Medical Practice and/or the Health Board and/or another relevant source to complete a **Case Management Report** on behalf of the Health Board within 4 calendar months and submit to WRP in accordance with WRP procedures.

6. Lessons learned

Learning is a key feature of the scheme and should be considered from the outset of a claim through to conclusion. Even where there is no liability the process itself can lead to valuable learning such as responding constructively and maintaining ongoing relationships with patients and families.

Where there is an error of clinical management or systems failure, learning should be identified and shared in order to ensure changes in knowledge, behaviour and understanding.

There are numerous methodologies for recognising learning needs and addressing these as individuals and teams. Significant event analysis appears in various guises such as significant incidents, critical incidents or never events. The principles of shared learning and the demonstration of change are common to each. Audit and case review may also be appropriate.

Where there are wider concerns about individuals, existing processes may be engaged by Health Boards. For example, the General Practitioners annual Appraisal/CPD cycle is commonly used to address low level concerns where learning is indicated. At a more serious level, Primary Medical Care Advisory Team (PMCAT) and NHS Resolution's Practitioner Performance Advice Service (NRPPA) reviews are available to Health Boards as options to inform any necessary restriction of practice or removal from practice under the NHS (Performers Lists) (Wales) Regulations 2004.

The Health Board approach to some of these issues can be found in the 2018 'Framework for the Management of Performance Concerns in General Medical Practitioners on the Medical Performers List Wales'. Box C identifies options currently available depending on level of concern.

Box C

Feedback on lessons learned and referrals may occur through the following routes at any point of this process, such as:

- GMS Contract Management / Monitoring
- Medical Performance List Management
- Clinician Appraisal CPD Cycle (monitoring process managed by HB)
 - e.g. Significant event reviews
- NRPPA Assessments
- PMCAT advice
- GP Further training practice network (HEIW)
- WRP Team Review
- GP cluster networks
- Possible referral to regulators
- Case Feedback Publications

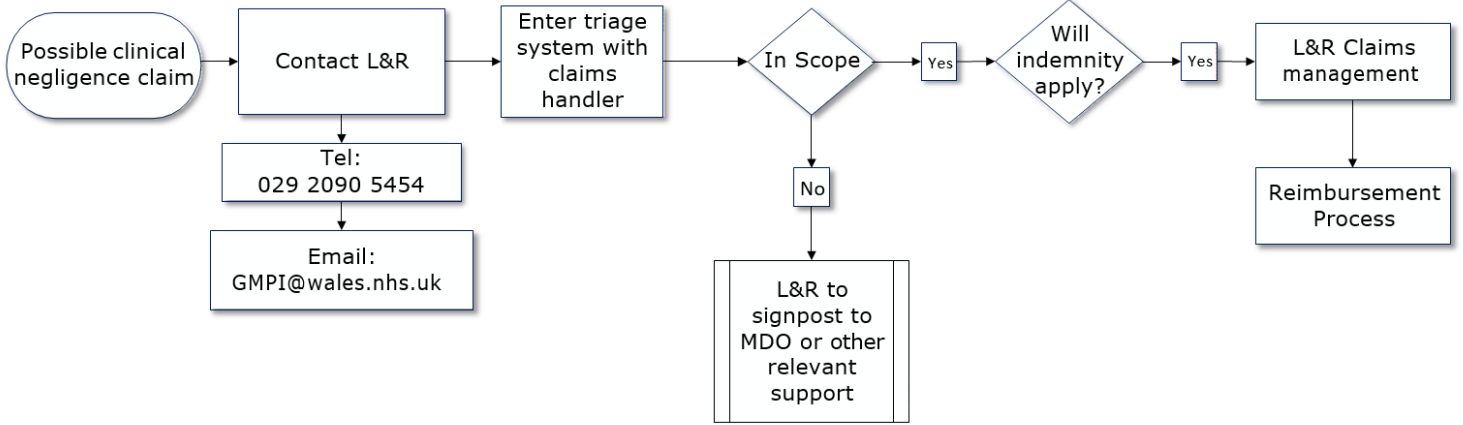
When damages are recouped by a Health Board from the Welsh Risk Pool, its process requires clear evidence of effective learning from any mistakes or omissions that gave rise to the complaint, whether or not liability has been admitted. Once a decision to settle a case is reached, a **Learning from Events Report** will be completed by NWSSP-L&R on behalf of the Health Board and forwarded to the Welsh Risk Pool within 60 working days.



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7. Health Board Process Map

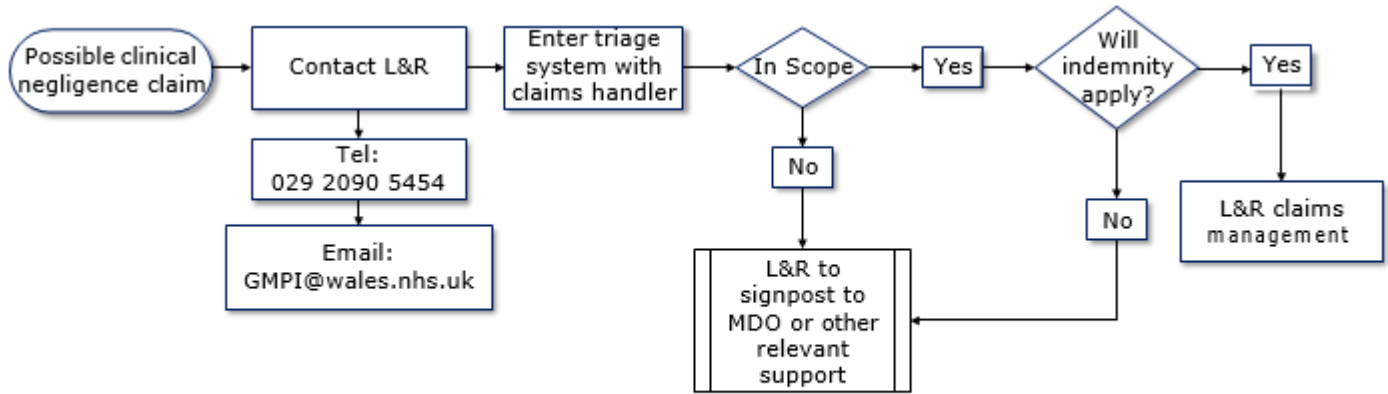




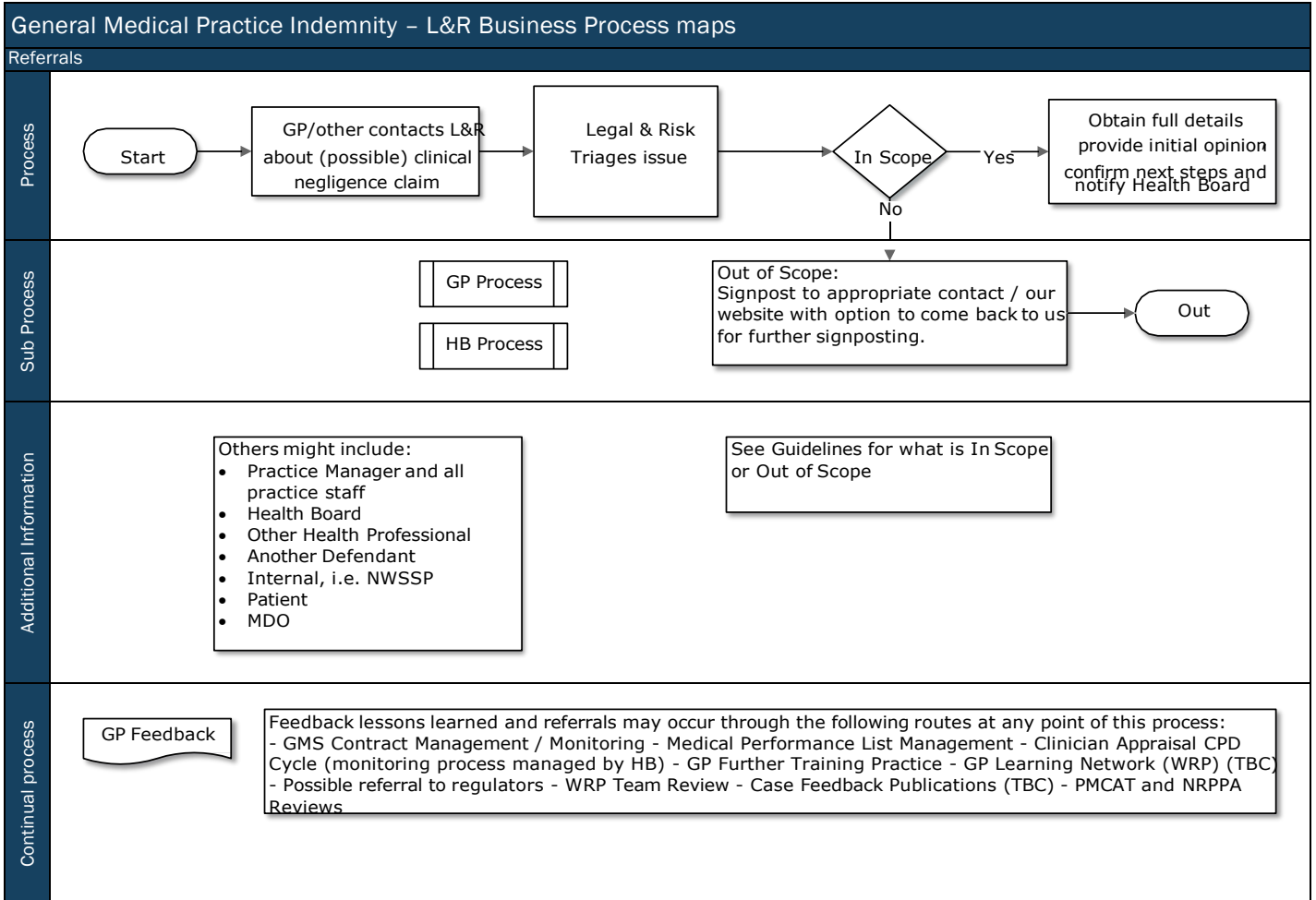
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8. Summary of Process for General Medical Practices

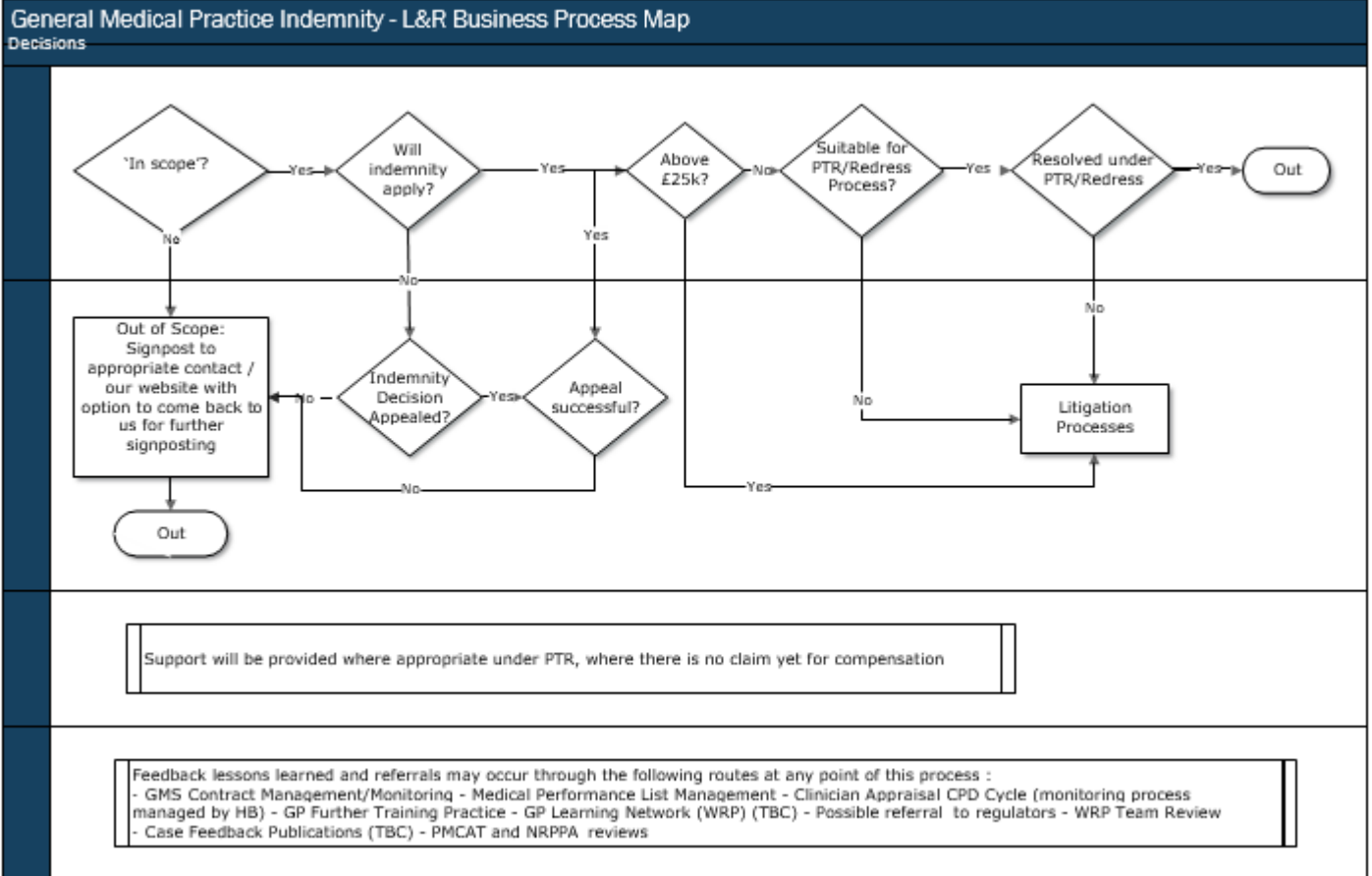


9. L&R Business process – Referrals





10. L&R Business process – Decisions

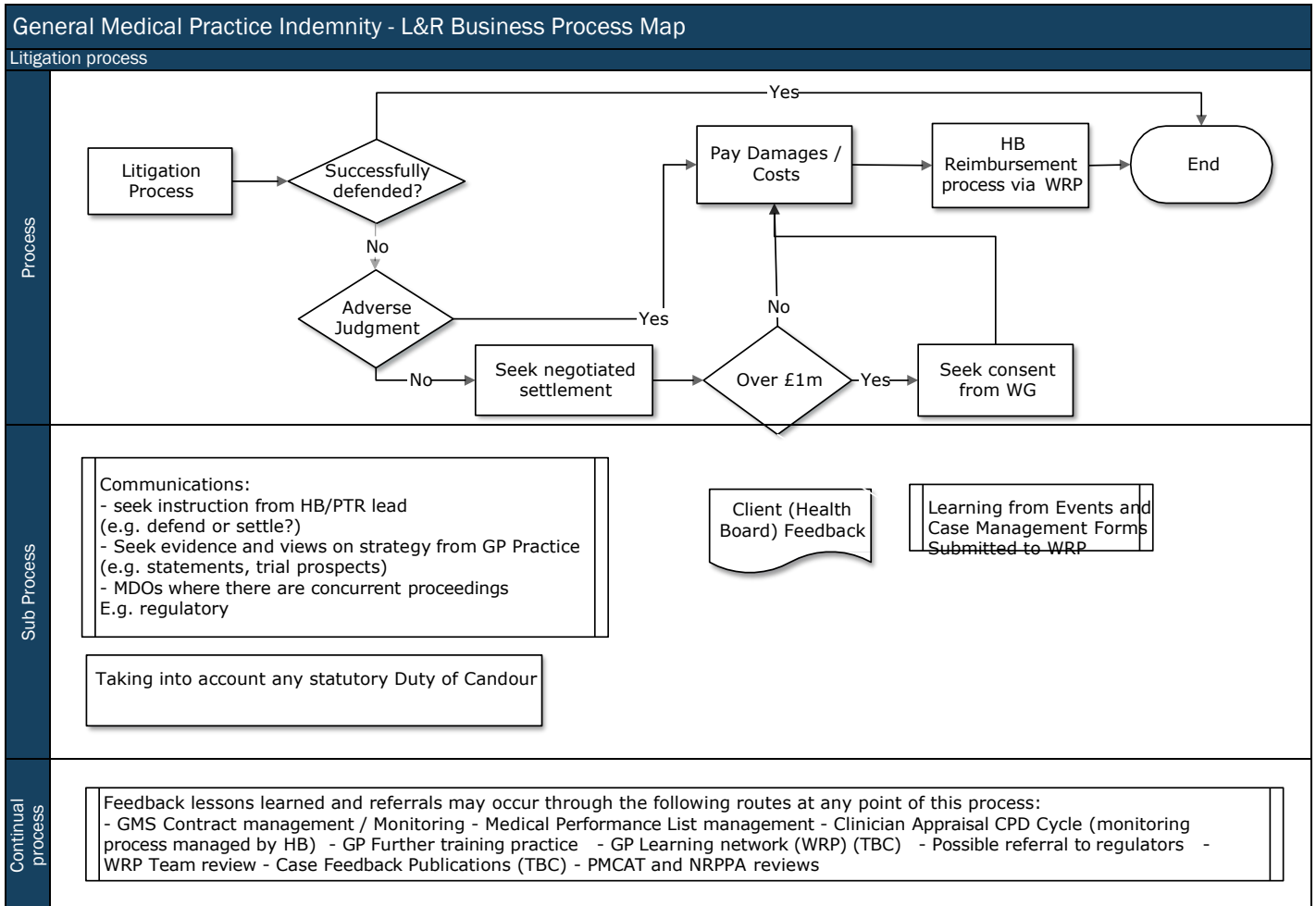




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11. L&R Business Process – Litigation



12. Interaction with Defence Organisations

When a General Medical Practice contacts its Medical Defence Organisation (MDO) with an issue that is in scope, the MDO will advise the General Medical Practice to contact NWSSP-L&R GMPI Team and will provide contact details for NWSSP-L&R.

When a General Medical Practice contacts NWSSP - L&R with an issue that is out of scope NWSSP-L&R will advise the General Medical Practice to contact his/her MDO for advice and will offer the option to come back to NWSSP-L&R for further signposting if needed. If necessary, NWSSP-L&R can contact the MDO direct to request the MDO contact their General Medical Practice member.

There may be a scenario where a claim or complaint has multiple issues arising that are both in scope and out of scope (e.g. a claim and an inquest running concurrently and possible regulatory issues). The MDO and NWSSP-L&R will liaise with each other as necessary and the General Medical Practice will be advised when to contact NWSSP-L&R or their MDO in those circumstances.

It may be appropriate for NWSSP-L&R and the MDO to share information such as statements, experts' reports, notes of an inquest etc. NWSSP-L&R will contact the relevant MDO or vice versa to discuss and agree the level of interaction required on a case by case basis to protect the interests of the General Medical Practice. In such circumstances NWSSP-L&R will act under the instructions of the Health Board as appropriate.

13. Cross Border

If a complaint or claim arises from treatment provided by a General Medical Practice in both Wales and England, the General Medical Practice should inform NWSSP-L&R and NHS Resolution (NHSR).

If treatment is provided to a patient in the context of the Wales Medical Performers List (MPS) and providing a (Wales) NHS Primary Medical Service, GMPI will apply and the General Medical Practice should inform NWSSP-L&R.

For those General Medical Practices located on the border between Wales and England and are registered on two Medical Performers Lists, communication of a complaint or claim should be made to NWSSP-L&R and to the General Medical Practitioner's indemnity provider or to the English future liabilities scheme in relation to any English care.

Cases involving cross border issues are likely to arise infrequently. NWSSP-L&R and NHSR have agreed that in the event that either considers that a dispute will involve the other, it will aim as soon as reasonably practicable, to write to the other. Any interaction will adopt the following key principles:

- Using reasonable endeavours to negotiate in good faith and settle any dispute as soon as practicable;
- Any interaction and negotiation should take place direct between the two organisations, where achievable without involving the claimant;

- Where a dispute has not been resolved at that level, escalation to the Department of Health and Social Services (Wales) and the Department of Health and Social Care (England) for further negotiations.

Appendix A - GMPI Guidance Notes

Introduction

On the 14 May 2018, the Minister for Health and Social Services announced that the Welsh Government were to introduce a state backed scheme to provide clinical negligence indemnity for providers of GP services in Wales.

On the 6 February 2019, the Minister for Health and Social Services confirmed NHS Wales Shared Services Partnership Legal and Risk Services (NWSSP - L&R) as the partner to operate the Scheme for General Medical Practice Indemnity (GMPI) from 1 April 2019, along the lines of a similar scheme in England. GMPI covers claims for compensation arising from the care, diagnosis and treatment of a patient following incidents which happen on or after 1 April 2019.

GMPI provides clinical negligence indemnity on a discretionary basis, similar to the basis upon which the Department of Health in England and the medical defence organisations provide their cover.

Welsh Government has agreed commercial terms relating to the arrangements for the existing liabilities with some medical defence organisations. The arrangements agreed are in respect of the historical NHS clinical negligence liabilities of those medical defence organisation's GP members, arising from clinical incidents occurring before 1 April 2019. NWSSP-L&R will have oversight of the arrangements which include those medical defence organisations continuing to handle claims for an interim period. You can find further information [here](#).

Welsh Government recognises the importance of GP Claims for clinical negligence being robustly defended by Health Boards and NWSSP-L&R in order to preserve the reputation of the GPs.

This guidance is intended to explain the scope / coverage of GMPI and when and how to report a claim.

Scope of the Scheme

GMPI covers claims for compensation arising from the care, diagnosis and treatment of a patient following incidents which happen on or after 1 April 2019 for NHS Work.

The National Health Service (Clinical Negligence Scheme) (Wales) Regulations 2019 set out the scope of the scheme for [GMPI](#).

GMPI provides indemnity for clinical negligence claims arising from incidents on or after 1 April 2019 to all general medical practice staff providing that the activities they are undertaking fall within the definition of 'primary medical services' as below:

"Primary medical services": health services provided under a contract, arrangement or agreement made under or by virtue of the following sections of the NHS Wales Act 2006:

(a) section 41(2) (primary medical services);

(b) section 42(1) (general medical services contracts);

(c) section 50 (arrangements by Local Health Boards for the provision of primary medical services)

GP locums must join the All Wales Locum Register (AWLR) for Wales to be

captured by GMPI. There are specific requirements with which GP locums must comply in order to benefit from GMPI and these are contained in [Appendix B](#). More information on how to register on the AWLR can be found [here](#).

For claims which concern incidents which happened before 1 April 2019,

- if you are, or were at the time, a member of the MDDUS - you must now contact NWSSP – L&R in the first instance, who will confirm your membership and deal with the matter.
- If you are, or were at the time, a member of the MPS then, until 1 April 2021, you should go to your medical defence organisation (MDO) unless you are notified otherwise.
- If you are, or were at the time, a member of the MDU then, until further notice, you should go to your medical defence organisation (MDO) or insurer which provided your cover at that time for advice.
- If you were not a member of any of the above MDOs at the time, you should go to your insurer which provided your cover at that time for advice.

GMPI will provide comprehensive cover arising from the care, diagnosis and treatment of a patient. All compensation costs and legal costs will be met by the Local Health Board (and then reimbursed to the Health Board via NWSSP - L&R and NWSSP Welsh Risk Pool), subject to the GMPI rules.

You can find further information about what activities are captured by GMPI on NWSSP-L&R's GMPI FAQs on our website [here](#).

GMPI does not cover non-NHS activities, private/paid for services would not be captured and GPs and their staff require their own indemnity for these activities.

Furthermore, GMPI only relates to clinical negligence claims. Matters such as inquests, regulatory issues, or criminal proceedings to name a few are outside the scope of the scheme and again GPs and their staff would require their own indemnity for those activities.

The GMPI provides discretionary indemnity cover for clinical negligence liabilities for NHS work arising from the activities of all GP practice staff and those people the practice engage, including: GP partners; salaried GPs; locum GPs, if on the All Wales Locum Register and complying with the requirements as set out at [Appendix B](#); Practice Pharmacists; Practice Nurses; Practice Healthcare assistants; and any other member of staff providing clinical services. GP trainees and trainee nursing students delivering general medical services will also be covered. The GMPI will also cover any healthcare professionals providing the delivery of NHS Primary Care through Primary Care cluster arrangements and any vicarious liability to practices where a cluster based health professional is providing direct care to the practice's registered patients.

The delivery of “primary medical services” (as defined in italics on page 30 above) in prisons will be captured by GMPI. In addition, GMPI will indemnify practitioners performing “primary medical services” delivered through an Alternative Provider Medical Services (APMS) contract. In relation to Wales, APMS covers social enterprises in the delivery of NHS Primary Care Services.

The GMPI does not cover the following. This is not an exhaustive list so if in doubt you should contact your medical defence organisation. NWSSP-L&R will also be able to guide you further.

- Private Work / non NHS Work
- Disclosure of record requests from patients (unless there is a claim for compensation as well)
- Complaints that are not clinical negligence related (Regulator (GMC/NMC/HPC) Referrals and Hearings)
- Regulatory disputes
- Criminal Proceedings
- Healthcare Inspectorate Wales (HIW) investigations
- Inquest Representation
- Disciplinary proceedings against General Medical Practice staff
- Awards made by the Public Services Ombudsman for Wales (unless there is an overlap with compensation payable for an injury resulting from clinical negligence)
- Ex-gratia payments
- Defamation claims
- Breach of Data Protection Regulations/GDPR/Confidentiality – clinical negligence claims brought on these grounds will be reviewed on a case by case basis where necessary.
- Employers’ liability claims

- Public liability claims
- Property or Occupiers' liability claims

Individual GPs and General Medical Practices will need to take out an appropriate level of professional indemnity cover with a MDO for those elements of your practice not covered by GMPI. General Medical Practices will also require indemnity or insurance to cover the liability for employers', public liability and property claims and liability for non-NHS and other activities not covered under the scheme.

Membership of the scheme

All GPs and Health Professionals employed in General Medical Practices and/or through Primary Care cluster arrangements, other than locum GPs who do not comply with the specific requirements set out in [Appendix B](#), delivering NHS Primary Medical Services will automatically be captured by GMPI.

A GP contractor who does not wish to make use of GMPI will be obliged to arrange alternative cover at their own cost through a MDO. The GP contractor must notify their Local Health Board and NWSSP - L&R that they do not wish to be covered by the Scheme.

NWSSP - L&R will be able to identify those GPs and Health Professionals employed in GP practices who are captured by GMPI through the National Workforce Reporting System (WNWRS). Therefore, being listed on the WNWRS is a necessary part of the arrangements. Further information is available on the following website: <http://www.nwssp.wales.nhs.uk/primary-care-sustainability>

Any enquiries should be made using the following contact details:

Email: NWSSP.PrimaryCareWNWRS@wales.nhs.uk

Telephone: 01792 860498/0490

When a claim should be reported

NWSSP - L&R aims to resolve any claim for compensation brought by a patient in relation to their clinical care under the NHS as fairly and as quickly as possible.

Claims will be investigated thoroughly and NWSSP - L&R will make decisions about strategy in the context of the evidence (e.g. witness statement, health records and trial prospects), taking into account the views of the Health Board and the General Medical Practice.

Compensation will be paid where NWSSP - L&R's investigation confirms that this is appropriate. Where that is not the case, NWSSP - L&R will defend the case under the instructions of the Health Board, calling upon the best expertise to do so in order to robustly defend the case and to protect the reputation of GPs and their staff. In all cases, NWSSP - L&R will do all that it can to keep the matter out of formal court proceedings.

Where there is a sequence of events which straddles both the pre and post 1 April 2019 period, the scheme for GMPI will be relevant only to the element which relates to the 'post' 1 April 2019 period, whilst for members or former members of the MDDUS, the pre-April 2019 element will also be dealt with by NWSSP - L&R under the Existing Liabilities Scheme. For members or former members of the MPS, the pre-April 2019 element will be dealt with by MPS until 1 April 2021 unless you are notified otherwise. For members or former members of the MDU, the pre-April 2019 element will be dealt with by the MDU and in these cases NWSSP - L&R will work closely with the medical defence organisation to co-ordinate any claims.

For incidents where multiple issues may arise e.g. where there is both a claim and GMC involvement, NWSSP - L&R will work closely with your medical defence organisation subject to the consent of the GP/Health Professional involved and in compliance with GDPR. As claims tend to have a time-lag between an incident occurring and a claim being made, it is likely that in most cases, your first contact will be with your medical defence organisation.

If you receive a claim, or are notified of an allegation of negligence / become aware of a matter that may give rise to a claim, it is important that you contact NWSSP - L&R as early as possible as this will give us the best possible opportunity to support you effectively and ensure that set deadlines are met. Remember, if you just need advice regarding any possible breach of duty or liability then please ensure you contact L&R first.

Depending on the period of time to which the claim relates you must either report the claim to L&R or to your medical defence organisation;

- Incidents occurring **before 1 April 2019** –
 - MDDUS members or former members, report the claim to NWSSP – L&R,
 - MPS members or former members, report the claim to MPS until 1 April 2021 unless you are notified otherwise, and
 - MDU members or former members, report the claim to your medical defence organisation;
- Incidents occurring **on or after 1 April 2019** - report the claim to NWSSP - L&R;
- Incidents occurring during both periods, or where it is unclear –

report to NWSSP - L&R and, if you are or were a member of the MDU, also to your medical defence organisation.

You or your medical defence organisation should contact NWSSP - L&R as soon as you become aware of a claim relating to an incident that occurs on or after 1 April 2019.

The table below sets out some guidance on this:

No.	Situation	Action Required	Timescale
1.	<p>A patient safety incident which has or may have resulted in severe harm.</p> <p>“Severe harm” could include the following resulting from any care, diagnosis and treatment:</p> <ul style="list-style-type: none"> • the death of a patient • shortening of a patient’s life expectancy • impairment of a patient’s sensory, motor or intellectual functions which is likely to last for a continuous period • Prolonged psychological injury 	<p>Report to NWSSP - L&R irrespective of whether or not a claim has been made or a disclosure request for patient records received.</p>	<p>As soon as possible but no later than 4 weeks.</p>
2.	<p>A request for disclosure by the patient or their legal representative for patient records, indicating a claim may be pursued.</p> <p>Some other indication that a claim is being considered – e.g. patient or patient’s solicitor requests a limitation extension.</p>	<p>Report to NWSSP - L&R</p>	<p>As soon as possible but no later than 1 week from receipt of the disclosure or similar request.</p>
3.	<p>Any demand for compensation including but not limited to Letter of Claim, Claim Form, Particulars of Claim, Claim</p>	<p>Report to NWSSP - L&R</p>	<p>Within 24 hours of receipt.</p>

	Notification Form, Settlement Offer, Part 36 Offer.		
4.	Any Putting Things Right/complaint/ Public Services Ombudsman for Wales response that you intend to send, which amounts to an admission of breach of duty or acknowledges errors in the care, diagnosis and treatment of a patient.	Report to NWSSP - L&R	Before sending the item.
5.	Any intended offer of compensation or other redress (under Putting Things Right or otherwise).	Report to NWSSP - L&R	Before sending the item.
6.	Group Action relating to a clinical issue.	Report to NWSSP - L&R	Within 24 hours of receipt.

If a General Medical Practice receives or is involved in any of the above reportable incidents on behalf of a retired GP or other Healthcare Professional who is no longer working in Primary Care, the General Medical Practice should notify NWSSP - L&R on behalf of that individual and provide NWSSP - L&R with their details so that NWSSP - L&R can contact them for assistance with any potential claim.

Reporting the above to NWSSP - L&R will allow early involvement, which can often potentially avoid a claim or allow for early investigations which limit unnecessary delay and legal costs.

How to contact NWSSP - L&R

If you have any concerns regarding whether a claim falls within scheme or whether a matter should be reported please contact NWSSP - L&R by:

- 1. Email** - GMPI@wales.nhs.uk - setting out the basis of your enquiry and NWSSP - L&R will either respond by email or telephone to discuss the issue further. If preferred, complete the GMPI Contact & Information Form
 - see [Appendix C](#) which is available on the NWSSP - L&R website
<https://nwssp.nhs.wales/ourservices/legal-risk-services/areas-of-practice/general-medical-practice-indemnity-gmpi/>

When reporting a matter to NWSSP - L&R, General Medical Practices should ensure that documents are sent via one of the following routes:

- Secure NHS email account;
 - For a non-NHS email account, please ensure documents such as the GMPI Contact and Information Form which contains patient sensitive data are encrypted (password protected);
 - NWSSP - L&R secure web portal (internet access required), please contact the team to request access;
 - The NHS Wales Secure File Sharing Portal (also known as MOVEit).
- 2. Telephone** - call NWSSP - L&R's GMPI Helpline on **029 2090 5454** during standard business hours 9.00am – 5.00pm Monday – Friday to speak to a legal advisor on any scheme coverage issues. This is only to deal with any matters covered by the scheme and not medico-legal matters that will be handled by your MDO (or other insurer).

Reporting a claim to NWSSP - L&R and what we need from you

It is essential when reporting a claim to NWSSP - L&R and providing documents that you do so securely to ensure a patient's personal data is protected.

When reporting a claim to NWSSP - L&R, complete the GMPI Contact & Information Form – (see [Appendix C](#)) and where available, send us the following documents (see above):

1. Patient's complete set of GP records;
2. Letter of Claim or some other request for compensation from the patient or their solicitors;
3. Claim Form, Particulars of Claim – court documents commencing a clinical negligence claim;
4. All correspondence with the patient or their solicitors;
5. All correspondence relating to any complaint that may have been made by the patient;
6. Written comments, witness statements and reports you may have previously prepared, for example in preparation for a complaint response, inquest or regulatory hearing that relates to the relevant incident that is, or may be, the subject of a claim;
7. Any independent expert evidence that may have previously been obtained, for example in preparation for an inquest or regulatory hearing (if provided to you by your MDO);
8. Notes or associated documents from any inquest, including the details of the Coroner's conclusion (if provided to you by your MDO); and
9. Any Serious Incident Investigation Report or any other report into a patient safety incident;

10. Any documentation generated under Putting Things Right.

The documents listed 2 – 9 above should not be included in a patient’s GP notes and should be kept separately.

What will happen after a claim has been reported?

Once a claim is reported to NWSSP - L&R, it will need to be verified that it falls within the scope of the scheme. NWSSP - L&R will contact you by email or telephone within 3 standard business days of receipt of relevant information required or as agreed to confirm the position.

Once it is confirmed that a claim falls within the scope of the scheme, you will be allocated a dedicated legal claims handler who will contact you at a time convenient to you to set the investigation in motion.

If court proceedings are served and you are named as Defendant in the action, NWSSP - L&R will need to liaise with the solicitors acting for the Claimant to explain the proceedings will need to be amended to name the Health Board as Defendant. NWSSP - L&R will aim to avoid formal court proceedings wherever possible. Your timely input to the investigation and resolution of the claim is critical. NWSSP - L&R may consider recommending the option of mediation with the patient which can be a way of resolving matters informally in a neutral space.

Once an outcome has been reached, WRP will use the anonymised learning from the incident and others like it for safety improvement in Primary Care. The scheme is the first occasion on which claims arising in Primary Care have been brought under one roof and WRP will work with the wider Primary

Care community and others to ensure that this is put to good use for the benefit of all patients and those who care for them.

The implementation of Appendix B is subject to the communication in the [Sub Appendix to Appendix B](#) which was issued on 9 December 2020

Appendix B – Requirements for the use of the All Wales Locum Register (Applicable to General Medical Practitioners engaged to work locum shifts)

Requirements for the use of the All Wales Locum Register (Applicable to General Medical Practitioners engaged to work locum shifts – hereafter “a locum GP”).

The purpose of this document is to set out the requirements with which a locum GP must comply in order for General Medical Practice Indemnity (“GMPI”) to provide cover for the acts and or omissions of a locum GP in respect of clinical negligence claims. NWSSP Legal and Risk Services (“NWSSP-L&R”) is the operator of the Scheme for GMPI (under the auspices of Velindre University NHS Trust) as set out in the NHS (Clinical Negligence Scheme) (Wales) Regulations 2019 (“Scheme Regulations”). The purpose of setting such requirements is to ensure that NWSSP-L&R are able to comply with the Scheme Regulations in applying due diligence to the management of any clinical negligence claims that may be made against a locum GP or the Practice by which a locum GP is engaged where GMPI cover may be available.

Background

These requirements should be read in conjunction with the GMPI Guidelines and apply specifically to activities of a locum GP in General Medical Practices in Wales.

As a locum GP or an employed GP providing locum services to a General Medical Practice there are a number of requirements with which you must comply in order to benefit from the Welsh Government state backed scheme providing clinical negligence indemnity (GMPI). The Welsh Ministers have instructed us as operators of the scheme that GMPI cover will apply to a locum GP where (a) the locum GP is a member of the All Wales Locum Register (AWLR) and (b) Locum shifts are either booked or recorded through Locum Hub Wales (LHW).

The AWLR is administered by NWSSP Employment Services on behalf of Local Health Boards in accordance with the duties of Local Health Boards contained in both section 31 and paragraph 13 Part 3 of Schedule 2 of the National Health Service Wales Act 2006 and section 3(1)(a) of the National Health Service (Performers Lists) (Wales) Regulations 2004.

NWSSP L&R operate and manage GMPI in accordance with section 3 of the Scheme Regulations which apply to NHS Trusts and Local Health Boards. It is important to note that GMPI cover will only operate to provide indemnity cover to General Medical Practices, their staff and contractors for injury or losses arising from the performance of primary medical services. This arrangement captures individual locum GPs who would not otherwise be covered by the Scheme.

GP's carrying out locum shifts outside of their normal sessions but only within their own GP practice do not need to join the AWLR for this work to be captured by GMPI. However, if a GP carries out locum shifts as a locum GP elsewhere (for example in another General Medical Practice) they need to join the AWLR to be captured by GMPI.

Membership of the AWLR is voluntary. Should a locum GP choose not to join the AWLR they shall not be able to opt into the GMPI scheme and shall not be entitled receive the benefit of GMPI cover. In such circumstances the locum GP shall be responsible for arranging their own clinical negligence indemnity cover for any locum shifts worked within General Medical Practices.

For clarity a locum GP shall have the ability to book locum shifts on LHW either through membership of the AWLR or through provision of evidence of their own clinical negligence indemnity cover, evidence of which shall be requested by the General Medical Practice under which they propose to provide a locum GP shift.

Please note, it is the responsibility of the Locum GP to inform the Health Board, NWSSP Employment Services (NWSSP.PrimaryCareWNWRS@wales.nhs.uk) and any General Medical Practice the locum GP chooses to work for that they have arranged their own clinical negligence cover indemnity and specifically in the following circumstances:

a. where the locum GP is new to locum work and chose not to join the AWLR;

and/or

b. where the locum GP is already registered on the AWLR but chooses not to either book or record their locum shift on LHW.

The Scheme for GMPI is operated by NWSSP-L&R on behalf of Welsh

Government for the benefit of General Medical Practices in Wales. It is a discretionary scheme and where matters are within scope, NWSSP-L&R will confirm whether GMPI cover shall be granted. Further information to decide whether matters are in scope and circumstances where cover under GMPI shall be granted are set out in the general GMPI Guidelines and FAQs of which this Appendix B forms a part.

Whilst NWSSP-L&R as operators of the scheme have set out the requirements for use of AWLR for GMPI cover, there is no intention to create a legal or contractual relationship between the locum GP and NWSSP-L&R. Provision of indemnity under the GMPI scheme does not amount to a contract of insurance. Any services provided as a locum GP shall be provided to the General Medical Practice, in accordance with any contractual arrangements the parties have agreed to be bound by. It shall remain the responsibility of the locum GP to comply with any regulatory requirements and always act in good faith as would be expected as a locum GP or employed GP. For clarity, GMPI cover will not apply to any work that a locum GP directly undertakes for a Health Board, the relevant Health Board can confirm indemnity arrangements upon request.

The purpose of these requirements of use are to ensure locum GP's are aware of the requirements, with which they must comply, on joining the AWLR. NWSSP-L&R has an obligation to apply the terms of the Scheme for GMPI as set out in the Scheme Regulations. The purpose of setting such requirements for membership of AWLR is to ensure that NWSSP-L&R are able to comply with the Scheme Regulations in applying due diligence to the management of any clinical negligence claims that be made against the General Medical Practice during which GMPI cover will be applicable.

Requirements

1. In order to be included on the AWLR the locum GP must be a qualified General Medical Practitioner and must be included on a Medical Performers List in Wales in accordance with The National Health Service (Performers Lists) (Wales) Regulations 2004.
2. When on the AWLR, to benefit from GMPI cover a locum GP must:
 - a. create and fully complete the locum profile on LHW;
 - b. ensure that all information supplied on LHW is, and remains, truthful, complete and accurate;
 - c. provide all assistance and information in relation to any and all locum shifts that is reasonably required in respect of any claims (from time to time) by NWSSP-L&R for the purposes and operation of GMPI cover;
 - d. comply with any General Medical Practices requirements which includes provision of information set out in paragraph e below, and ensure all actions are carried out in a way that enables the General Medical Practices for whom the locum shift is provided are able to comply with the Scheme for General Medical Practice Indemnity (GMPI) Guidelines (as updated from time to time); and
 - e. supply information about the locum shifts provided (under each locum shift worked with the General Medical Practice) as follows:
 - i. where those locum shifts are booked using LHW, LHW will request certain information about the locum shifts to enable management and monitoring of the Scheme for GMPI.

- ii. (on and from the locum shift date(s)) where some or all locum shifts are booked outside LHW, the locum GP must provide (either prospectively or retrospectively) the required information about all those locum shifts within LHW.
 - iii. (on and from the locum shift date(s)) where no locum GP shifts are worked the Locum GP must update LHW confirming that no locum shifts have been undertaken within the required reporting period. This must be updated retrospectively by no later than the end of the following month.
3. These requirements may be reviewed and updated from time to time. Locum GP's shall be notified by NWSSP Employment Services of any new changes. Where the locum GP chooses not to agree any amendments of these requirements they shall be obliged to arrange alternative professional indemnity cover at their own personal cost and shall notify both the Health Board, NWSSP Employment Services (NWSSP.PrimaryCareWNWRS@wales.nhs.uk) and any General Medical Practice the locum GP chooses to work for.

Circumstances where GMPI cover is not applicable

4. GMPI Scheme will not provide indemnity if:
- a. the locum GP is no longer either a GP or included on a Medical Performers List in Wales; and/or
 - b. the locum GP is no longer a member of the AWLR; and/or
 - c. the locum GP is providing medical services which are outside the scope of the GMPI scheme.

Failure to comply with the AWLR requirements

5. Where the Locum GP fails to comply with any requirements in paragraph 1,2 and 3 above the discretionary nature of the GMPI scheme is at risk and the actions and/or omissions of any Locum GP's performing locum shifts may not be covered by GMPI.
6. Where NWSSP-L&R notify a locum GP that GMPI shall not provide indemnity cover the locum GP must notify NWSSP Employment Services and the Local Health Board. The Locum GP will be obliged to arrange alternative professional indemnity cover at their own personal cost through a medical defence organisation for locum shifts.

GDPR

7. All personal data processed by NWSSP under the AWLR, LHW and GMPI Scheme will comply with the requirements of the Data Protection Act 2018 and the General Data Protection Regulations (GDPR). Further information explaining this processing is set out in the privacy notices produced by LHW, NWSSP Employment Services and NWSSP-L&R, which can be found here:

Scheme for GMPI: <https://nwssp.nhs.wales/ourservices/legal-risk-services/privacy-notice/>

AWLR: <https://nwssp.nhs.wales/ourservices/employment-services/employment-services-documents/primary-care-sustainability/awlr-privacy-notice-v1/>

GP Locum Hub Wales: <https://locumhubwales.co.uk/files/GPWales%20-%20Privacy%20Notice.pdf>

Appendix C – GMPI Contact & Information Form

Name of Caller & Role:	Title: _____ First Name: _____ Surname: _____ Job Title: _____ Preferred contact number: _____
Health Board:	_____
Person seeking Indemnity:	Title: _____ First name: _____ Surname: _____
Role of person seeking Indemnity:	_____
Name of Practice:	_____
Practice Address:	_____
Preferred Telephone Number:	_____
Email address:	_____
Preferred method of contact:	<input type="checkbox"/> Phone <input type="checkbox"/> <input type="checkbox"/> Email <input type="checkbox"/>
Type of employment / engagement (eg locum?) at time of material treatment:	_____
Medical Defence Organisation/Professional Indemnity Insurer:	_____
Is MDO providing advice on any issues relating to this patient?	_____
Reason for Call/Contact:	_____



Patient Details:	Title: Given Names: Surname:
Gender:	
Patient Date of Birth	
Patient Address including postcode	
Telephone number	
Occupation [If known]	
Date of death	

To be completed by L&R

L&R Reference:													
L&R Call handler													
Date received													
Length of call													
In Scope?	Y / N If no, signposted to:												
*Is Indemnity Recommended?													
*Initial Categorisation	<table border="0"> <tr> <td>PTR Concern (GPP)</td> <td><input type="checkbox"/></td> <td>PTR Redress (GPQ)</td> <td><input type="checkbox"/></td> </tr> <tr> <td>Clin. Neg. Claim (GPC)</td> <td></td> <td></td> <td><input type="checkbox"/></td> </tr> <tr> <td></td> <td><input type="checkbox"/></td> <td>Enquiry only (GPE)</td> <td></td> </tr> </table>	PTR Concern (GPP)	<input type="checkbox"/>	PTR Redress (GPQ)	<input type="checkbox"/>	Clin. Neg. Claim (GPC)			<input type="checkbox"/>		<input type="checkbox"/>	Enquiry only (GPE)	
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Clin. Neg. Claim (GPC)			<input type="checkbox"/>										
	<input type="checkbox"/>	Enquiry only (GPE)											

Advice and Actions

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GIG
CYMRU
NHS
WALES

Partneriaeth
Cydwasaethau
Gwasanaethau Cyfreithiol a Risg

Shared Services
Partnership
Legal and Risk Services

Advice given to return to GMPI helpline if needed

(Please tick)