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Bwrdd Iechyd Prifysgol
Bae Abertawe
Swansea Bay University
Health Board



Meeting Date	10 April 2019	Agenda Item	6.1
Report Title	Changes to GP Indemnity		
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Report Sponsor	Lynne Hamilton		
Presented by	Pam Wenger		
Freedom of Information	Open		
Purpose of the Report	To update the Executive Board as to changes in the GP Indemnity Scheme with effect from 1 st April 2019.		
Key Issues	<p>On the 14 May 2018, the Minister for Health and Social Services announced that the Welsh Government would introduce a state backed scheme to provide clinical negligence indemnity for providers of GP services in Wales.</p> <p>The scheme 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.</p> <p>The scheme is initially being funded through a one-off reduction of £2.88 per patient in the global sum provided to GP Practices. This top sliced amount will then be managed by Welsh Risk Pool to make payments to the medical defence organisations for cases pre 1st April 2019 and to fund any settlements required from cases arising post 1st April 2019</p>		
Specific Action Required <i>(please choose one only)</i>	Information	Discussion	Assurance
	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Recommendations	<p>Members are asked to:</p> <ul style="list-style-type: none"> NOTE the changes to GP indemnity with effect from 1st April 2019 		

CHANGES to GP INDEMNITY

1. INTRODUCTION

This report provides an update to the Executive Board on the changes to the GP Indemnity scheme which came into effect on 1st April 2019.

2. BACKGROUND

Scheme Details

On the 14 May 2018, the Minister for Health and Social Services announced that the Welsh Government would 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 (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. The 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).

The National Health Service (Clinical Negligence Scheme) (Wales) Regulations 2019, sets 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).

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 L&R and NWSSP WRP), subject to the GMPI rules.

The GMPI will include clinical negligence liabilities for NHS work arising from the activities of all GP practice staff, including: GP partners; salaried GPs; locum GPs, if on the All Wales Locum Register; 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. Locum GPs will need to apply to NWSSP to be included in the All Wales Locum Register if they want to access the Scheme.

Individual GPs and GMS practices will need to take out an appropriate level of professional indemnity cover with a Medical Defence Organisation for those services not covered by the Scheme. GMS 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.

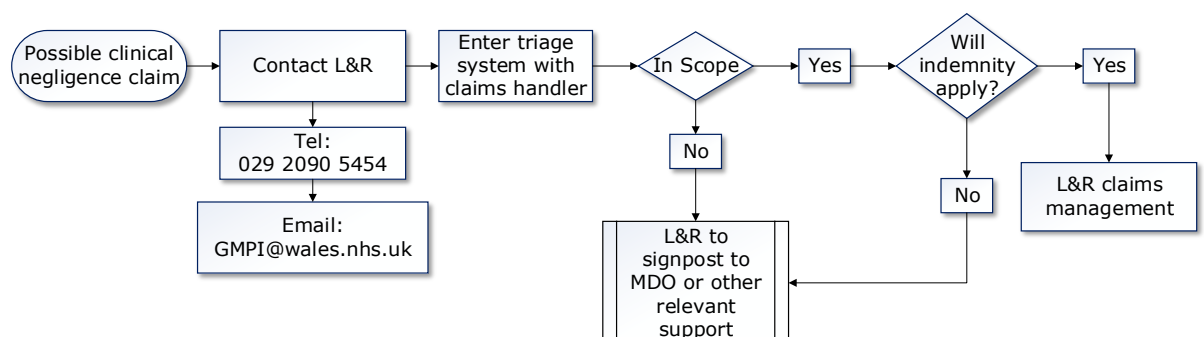
All GP and Health Professionals employed in General Medical Practices and/or through Primary Care cluster arrangements, other than locum GPs who are not on the All Wales Locum Register, delivering NHS General Medical Services will automatically be covered. Salaried GPs working in the health board managed practice or practice support team are already covered by existing Welsh Risk Pool arrangements but would need to be on the All Wales Locum Register if they work outside of the health board employment in an NHS practice.

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

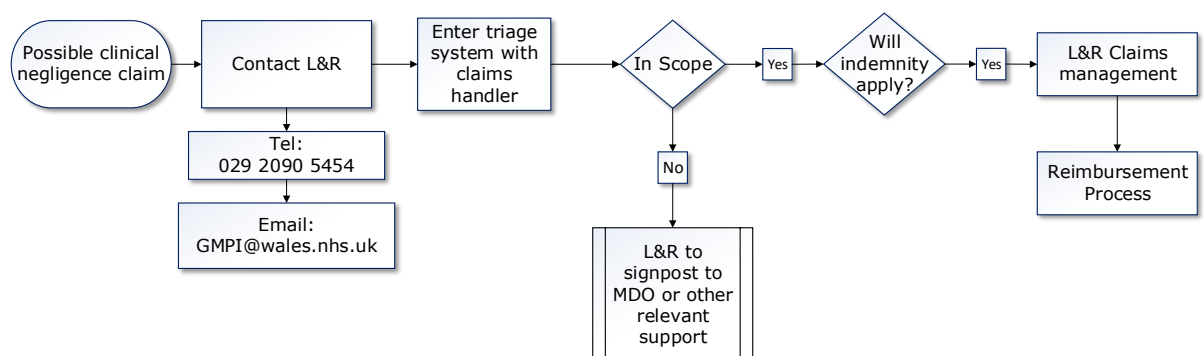
Operational Arrangements

A detailed operational process has been developed by Legal and Risk Services for managing the process as shown in the following flowcharts, the first being the process for GP's and the second the process for the health board.

GP process map

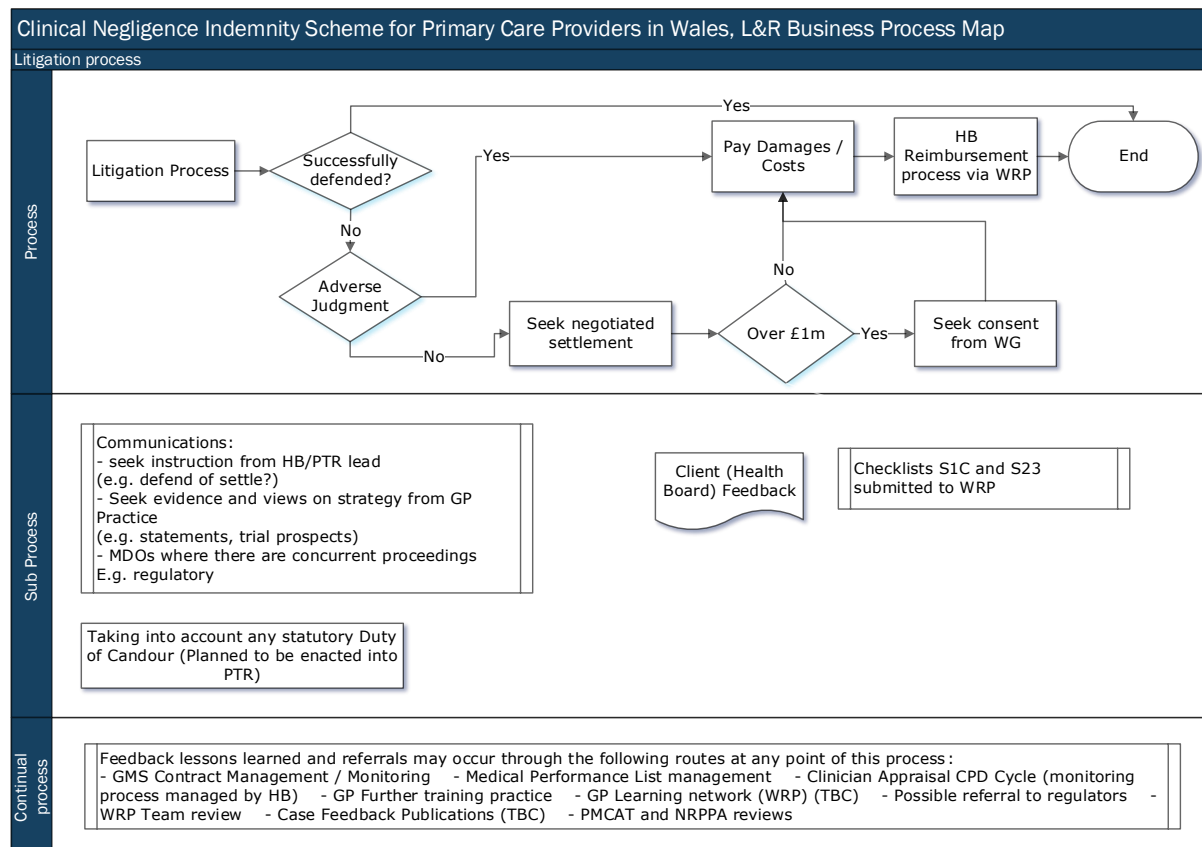


Health Board process map



The process will also require the input of Health Board claims management staff and finance staff who will be responsible for recording all claims within the local systems, processing all damages payments under the scheme, claiming reimbursement from Welsh Risk Pool and reporting on claims on a monthly basis in accordance with the monthly reporting requirements prescribed by Legal and Risk services. It is unclear as to the likely resource implications for these departments, but as the number of cases increases there may be a requirement for additional support within these departments to manage the claims process.

Where a claim is lodged with Legal and Risk Services the process is as follows:



3. GOVERNANCE AND RISK ISSUES

The new scheme and the processes put in place to administer it have been discussed at length and agreed with GPC Wales. The process has clear governance around it and requires significant input from GP's in supporting Legal and Risk Services in providing all relevant information required to manage the claim.

There does not appear to be a role for the Primary Care & Community Services Unit management team in the initial stages of any claim. However, as all claims which previously would have been handled exclusively by a practice and its MDO, will now be known to the health board there is likely to be a significant increase in the use of medical performers list procedures and GMS contract monitoring intensity. This would be beyond current capacity of the teams.

The reimbursement process also requires the completion of checklists to be submitted to Welsh Risk Pool as part of the reimbursement process (as is the case for clinical negligence claims in secondary care) which will require details as to why the claim arose, lessons learned and action taken to prevent similar claims in future. In the event that Welsh Risk Pool is not content with the action taken the claim will not be reimbursed.

The scheme also aims to provide improved visibility of claims against primary care. Whereas currently the claims are primarily managed by medical defence organisations with individual GP's the new process places the health board as front and centre of the claim as defendant. There will therefore be greater onus on the health board to address the reasons for the claims and drive improved practice in primary care in order to reduce future claims. It is likely that the Primary Care & Community Services Unit teams would be expected to lead the educational and learning interventions, not just in the index practice but across all practices. Again, this would require additional capacity for effective delivery.

As with any new scheme there are risks to its successful introduction, particularly given the change in process. There are also potential resource risks to the corporate areas of claims management and finance as this will be additional work that these departments will need to absorb. There may also be future financial risks to the health board in the event that lessons are not learned and Welsh Risk Pool do not reimburse the full value of claims under the scheme.

4. FINANCIAL IMPLICATIONS

The scheme is initially being funded through a reduction of £2.88 per patient in the global sum provided to GP Practices. This top sliced amount will then be managed by Welsh Risk Pool to make payments to the medical defence organisations for cases pre 1st April 2019 and to fund any settlements required from cases arising post 1st April 2019. GP's will no longer need to make payments to a medical defence organisation other than for claims which fall outside the scope of the GP Indemnity Scheme.

Initially the majority of the funding will be passed to the medical defence organisations to settle pre 1st April 2019 claims, but over time this will reduce as those claims are settled and the claims post 1st April 2019 which will be managed through the new scheme increase.

The funding will be added to the Welsh Risk Pool top sliced budget and there will be a risk share in place as is currently the case for all other claims with Welsh Risk Pool. The funding which has been top sliced is based on the number of existing claims and their average settlement value, but in the event that the value/number of claims increases there will be a requirement to increase the pool funding in line with the risk sharing matrix already in existence.

The executive should be aware of the forthcoming proposed changes to the *Putting Things Right* process, including the use of financial redress in General Medical Services. It is not yet clear whether there would be a trigger threshold for payment or not but this would be a new cost pressure.

The executive should also be aware of the impending Duty of Candour legislation to be introduced later in 2019. This is expected to apply to General Medical Services and thus would be another source of cost pressure as more redress and litigation may arise.

On 30th March, GPCW tactically walked away from the formal negotiations of the GMS contract complaining that the indemnity funding mechanism of top slicing the global sum was being imposed without agreement. The social media storm that has resulted is significant, with many usually conservative voices (including employees from LHBs around Wales) threatening industrial action, and contacting the press. We should be mindful of the likely impact on any local negotiations that the anger around the unagreed reduction in global sum has produced.

5. RECOMMENDATION

The Executive Board is asked to note the changes to GP indemnity with effect from 1st April 2019.

Governance and Assurance		
Link to Enabling Objectives (please choose)	Supporting better health and wellbeing by actively promoting and empowering people to live well in resilient communities	
	Partnerships for Improving Health and Wellbeing	<input checked="" type="checkbox"/>
	Co-Production and Health Literacy	<input type="checkbox"/>
	Digitally Enabled Health and Wellbeing	<input type="checkbox"/>
	Deliver better care through excellent health and care services achieving the outcomes that matter most to people	
	Best Value Outcomes and High Quality Care	<input checked="" type="checkbox"/>
	Partnerships for Care	<input checked="" type="checkbox"/>
	Excellent Staff	<input checked="" type="checkbox"/>
	Digitally Enabled Care	<input type="checkbox"/>
	Outstanding Research, Innovation, Education and Learning	<input type="checkbox"/>
Health and Care Standards		
(please choose)	Staying Healthy	<input type="checkbox"/>
	Safe Care	<input checked="" type="checkbox"/>
	Effective Care	<input checked="" type="checkbox"/>
	Dignified Care	<input checked="" type="checkbox"/>
	Timely Care	<input checked="" type="checkbox"/>
	Individual Care	<input checked="" type="checkbox"/>
	Staff and Resources	<input type="checkbox"/>
Quality, Safety and Patient Experience		
<p>The introduction of the GP Indemnity Scheme is aimed at improving the visibility of litigation claims against primary care and by making the health board the defendant drive through improvement in patient care. This will be done through ensuring that lessons are learned and actions taken to prevent future claims backed by a formal Welsh Risk Pool reimbursement of claims process.</p>		
Financial Implications		
<p>The scheme is initially being funded through a reduction of £2.88 per patient in the global sum provided to GP Practices.</p> <p>The funding will be added to the Welsh Risk Pool top sliced budget and there will be a risk share in place as is currently the case for other claims with Welsh Risk Pool. The funding which has been top sliced is based on the number of existing claims and their average settlement value, but in the event that the value/number of claims increases there will be a requirement to increase the pool funding in line with the risk sharing matrix already in existence.</p>		
Legal Implications (including equality and diversity assessment)		
<p>The new scheme makes the health board the defendant in all litigation claims against primary care which fall under the scheme.</p>		
Staffing Implications		
<p>There are potential staffing implications for the health board claims management team and the finance team as a result of the introduction of the scheme. This is unlikely to be fully identifiable for at least 12 to 18 months as the number of cases under the new scheme increases.</p>		

Long Term Implications (including the impact of the Well-being of Future Generations (Wales) Act 2015)	
<p>This scheme will have the following impact of the “The Well-being of Future Generations (Wales) Act 2015, 5 ways of working.</p> <ul style="list-style-type: none"> ○ Long Term – The scheme makes litigation in the primary care sector more visible and provides management information to the health board to ensure that lessons are learned from such claims and measures introduced to reduce future litigation and improve care. ○ Prevention – The lessons learned from the claims managed under the scheme should prevent claims re-occurring. ○ Integration – By integrating primary care claims management with secondary care claims management lessons can be learned from the types of claims and how they can be avoided, meeting the well-being objectives and goals. ○ Collaboration – The scheme will involve greater collaboration between primary care and the main health board, thereby providing opportunities to further help the health board to deliver its well-being objectives. ○ Involvement - The scheme will involve greater collaboration between primary care and the main health board. 	
Report History	This is the 1 st report on this subject
Appendices	None