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Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol  
Minister for Health and Social Services



Llywodraeth Cymru  
Welsh Government

Our Ref: MA/EM/3454/21

Russell George MS  
Chair  
Health and Social Care Committee

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6 December 2021

Dear Russell

**National Health Service (Indemnities) (Wales) Act 2020**

I am pleased to enclose the First Report on the Operationalisation of the Scheme for General Medical Practice Indemnity as at November 2021 in accordance with the commitment made during the passage of the Act through the Senedd in 2020.

Further Reports will be provided on an annual basis to the Committee.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'M. E. Morgan'.

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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.



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Welsh Government

REPORT for the Health and Social Care Committee

First Report on the Operationalisation of the Scheme for General Medical Practice  
Indemnity

November 2021

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## **1. The Scheme for General Medical Practice Indemnity - Future Liabilities Scheme (FLS)**

- 1.1 On 1 April 2019, the Minister for Health and Social Services launched the Scheme for General Medical Practice Indemnity - Future liabilities Scheme (known as the GMPI). The discretionary GMPI Scheme is operated by NHS Wales Shared Service Partnership – Legal and Risk Services (NWSSP-L&R on behalf of the Welsh Ministers.
- 1.2 Guidance and support is provided for GPs 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 are not be covered by the scheme, for which membership of a MDO remains necessary. Examples of such ‘out-of-scope’ activity includes private work, inquests, disciplinary issues, issues with the GMC or other Regulators and any non-clinical elements of Ombudsman referrals.
- 1.3 Nothing in the Scheme is intended to contradict other legal duties or professional obligations to which GPs 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.
- 1.4. Full details of the Scheme and Guidance can be found here.  
  
<https://nwssp.nhs.wales/ourservices/legal-risk-services/areas-of-practice/general-medical-practice-indemnity-gmpi/>
- 1.5 The GMPI guidelines and FAQs are regularly reviewed and revised as needed with GPs, Practice Managers and Health Boards advised of updates.

## **2. NHS Wales Shared Service Partnership – Legal & Risk Services**

- 2.1 NWSSP–L&R is a team of in-house lawyers which has operated within the NHS in Wales for over 25 years, providing legal representation and legal advice for all of the health bodies in Wales. The team has specialist experience, knowledge and understanding of the legal, administrative and policy issues that affect the operation of the NHS in Wales. The team is particularly experienced in the management of clinical negligence claims having managed in excess of 15,000 such claims in the secondary care context since 2004.
- 2.2 NWSSP–L&R has achieved annual re-accreditation of the Lexcel Quality Assurance Standard since 2002 and the Customer Service Excellence Award since 2011.
- 2.3 NWSSP-L&R is committed to identifying and feeding back risk issues for learning and safety improvement in primary care and secondary care and has worked closely with NWSSP’s Welsh Risk Pool service for over 25 years to ensure an integrated approach between claims management, reimbursement and the learning of lessons.

- 2.4 NWSSP-L&R has a dedicated Primary Care Clinical Negligence Team that operates both the Scheme for GMPI and the Existing Liabilities Scheme (“the GMPI Team”). The lawyers specialise in managing clinical negligence claims against GPs and GP Practice staff and work closely with NWSSP’s in-house GP advisors for input on patient concerns and claims and for assistance with learning from events and training.
- 2.5 Since its inception in April 2019, the GMPI Team has been shortlisted as finalists in 3 external legal awards:
- The Law Society Awards 2021, shortlisted in the ‘In-House Team of the Year’ category;
  - South Wales Law Awards 2021, Finalist in the ‘Personal Injury (clinical negligence)’ category – results awaited;
  - Wales Legal Awards 2020, Finalist in the ‘In-House Team of the Year’ category.
- 2.6 In managing the scheme the GMPI Team currently:
- operate an email and telephone helpline used by GP Practice staff and Health Boards across Wales seeking information about indemnity arrangements and support with clinical negligence complaints/claims;
  - handle clinical negligence claims brought against GP Practices in Wales;
  - provide support to GP Practices by responding to patients’ clinical concerns;
  - seek input from in-house GP advisors;
  - publish online FAQs which are regularly updated;
  - provide bespoke virtual training to Health Boards and GPs/Practices/Trainee GPs across Wales. For example, tips for GP Referrals during COVID-19, effective handling of patient concerns, and the clinical negligence Legal Test, Case Studies, Confidentiality and Learning from Events in General Medical Practices.
  - contribute articles to the Legal & Risk Newsletter sent to Health Boards and GP Practices.
  - is integral to the robust learning from events process in General Medical Practice;
  - meets regularly with other NWSSP divisions (including for example NWSSP Primary Care Services, NWSSP Employment Services and Welsh Risk Pool) and is a member of NWSSP’s Primary Care Steering Group which has been set up to support sustainable primary care and

to contribute to the development and delivery of the primary care model in Wales.

### **3. Operation of the GMPI**

- 3.1 During the launch year of the GMPI, the GMPI Team established their processes for implementing the scheme and created a programme for regular workshops / information sessions for Health Boards and GP Practices across Wales. Prior to the COVID-19 pandemic, the GMPI Team travelled across Wales with a roadshow, which delivered 19 training sessions/workshops about the new Scheme for GMPI, explaining how it would operate and included “question and answer” sessions. Originally provided on the traditional “face to face basis” these continue to be provided virtually.
- 3.2 The GMPI Team has provided and continues to provide a large amount of support to GP Practices and in September 2020 produced and circulated quick reference guides specifically aimed at GP Practices to resolve complaints at an early stage and to help avoid claims where possible. The guides reflect [NHS Wales Putting Things Right \(PTR\)](#) concerns procedure.
- 3.3 The GMPI Team regularly seek input from NWSSP’s in-house GP medical advisors to assist with patient concern responses (and claims where appropriate) and feedback the GP advisors’ comments and the suggested learning to GP Practices. The team has assisted GP Practices with over 210 patient concerns in the first 2 years of the Scheme and sought specific input from NWSSP’s in-house GP medical advisors on around 50 matters. The GMPI Team also instruct independent medico-legal GP experts and other experts, as appropriate.
- 3.4 The GMPI Team has provided training to GPs, GP Practice Managers and Health Boards on handling patient concerns. The training is interactive supported by factual case studies. The training helps to prompt discussion and collaboration between the Health Board and GP Practice staff which is particularly beneficial in a scenario where a patient is critical of both the primary care and the secondary care received. If Practice staff would benefit from additional support from their relevant Health Board, the GMPI Team is well placed to co-ordinate this from contacts in the Health Boards.
- 3.5 Training sessions are ongoing and include a mixture of legal, medical and practical points. Recent workshops / training sessions have included:
- April 2021 - Lunchtime Teams Webinar for GPs/ANPs on GMPI and 'Legalities of COVID with live Q&A', Woodland House Cardiff & Vale University Health Board;

- May 2021 - GP Trainees Half Day Teams Webinar which covered an introduction to NWSSP-L&R; the Scheme for GMPI, handling complaints, PTR the Clinical Negligence Legal Test, Case Studies, Confidentiality and Referrals. The team worked with the GP Training Team at Health Education and Improvement Wales (HEIW) to arrange and deliver this training, at which there were around 40 attendees;
- May 2021 - 2 x 1:15 hour informal and interactive concerns/complaints training sessions in for Swansea Bay University Health Board delivered by the GMPI team solicitors and an in-house GP. One session was tailored to GPs, Practice Managers and GP Practice staff and one for Health Board representatives. Approximately 70 individuals attended the sessions.

- 3.6 Through the support highlighted above, it is anticipated that early input by the GMPI Team with patient concerns will help to avoid clinical negligence claims in the longer term. However, it is recognised that some claims will, inevitably, be pursued, where for example, a Practice has made concessions or the claimant feels aggrieved and pursues the matter regardless of the merits of the claim. As at 31 March 2021, just 2 years after the introduction of the scheme, there had only been 2 patient concern matters, with which the Team had assisted, that developed into formal claims.
- 3.7 The GMPI Team has achieved good outcomes in FLS claims and received positive feedback from Health Boards and GP Practices. Feedback is obtained from GP Practices via 'Case Closure Client Satisfaction Questionnaires' that are issued at the end of an FLS claim. No responses had been received as at 31 March 2021, however, four responses have been received since in April and June 2021 and those responses indicated that the GP Practices were "Very Satisfied" with the overall management of the case and provision of advice. More information about the feedback received to date is set out in section 7 below.
- 3.8 The GMPI Team has led the successful defence of a claim at Trial. The claim brought against a GP Practice by a Litigant in Person who served court proceedings without notice. The damages sought by the claimant were low, but it was fundamental to defend the claim, supporting GP Practice staff who firmly disputed liability and to discourage similar unmeritorious claims. This was an example of the GP Practice, the Health Board and GMPI Team working together to manage a sensitive and difficult claim brought against a particular GP Practice.
- 3.9 NWSSP-L&R have a longstanding good working relationship and are in regular contact with Health Boards and NHS Trusts in Wales. There are systems in place for the Health Boards to feed back any questions or concerns about the GMPI. NWSSP's Medical Director attends the Heads

of Primary Care and Associate Medical Directors on a regular basis and is able to address any queries raised and feed back to the GMPI team.

3.10 The GMPI Team and NWSSP-L&R's Director also attend Health Board meetings to provide updates and discuss GMPI and learning from training / comms events that have been delivered. The GMPI Team have open lines of communication with GPC Wales and the RCGP and address queries as they arise in correspondence or via discussion.

3.11 Key Performance Indicators (KPIs) were introduced gradually as the new Scheme was implemented with the final KPIs relating to timelines (set out below) in place from October 2020. The initial target was to meet 90% of the KPIs increased to 93% in the year 2021-22. To date, the Team has achieved 100%.

The KPIs require the GMPI Team to:

(1) Review a new matter and inform the GP of whether the matter is in scope of GMPI within 3 working days of receipt of relevant information or as agreed; and

(2) Report to the Health Board and GP with NWSSP-L&R's file reference and case handler, decision on indemnity, next steps, within 10 working days of receipt of relevant information or as agreed.

3.12 During 2021, the GMPI Team will agree further key performance indicators that will be used to inform and complement the service level information and provide added assurance on value for money, efficiency gains and long-term sustainability of the service. KPIs relating to learning from events will be included within the suite. These will be in place by April 2022.

3.13 The GMPI Team look at ways to improve ways of working and to maximise efficiencies and effectiveness in how they operate resources. To this end, a new case management system will be developed during 2021-22 within NWSSP-L&R which will be flexible to meet the GMPI team needs and will support further monitoring of the KPIs.

#### **4. Learning from events and improving patient safety - integrating with Welsh Risk Pool**

4.1 NWSSP's Welsh Risk Pool service administers the risk pooling arrangement for losses arising against NHS bodies that was established in 1996 i.e. for clinical negligence claims relating to secondary care.

4.2 Where a settlement is negotiated or an adverse judgment is handed down at Trial in an FLS claim, the relevant Health Board will pay the damages and costs due to the claimant. The Health Board then seeks reimbursement of the monies paid from the Welsh Risk Pool by working



with the GP Practice to complete a Learning from Events Report. Welsh Risk Pool reimbursement requires clear evidence of effective learning from any mistakes or omissions that gave rise to the complaint, whether or not liability has been admitted. All Learning from Events Reports are scrutinised by a national panel which is drawn from experienced case handlers and clinicians. Staff from the Primary Medical Care Advisory Team (PMCAT) are invited to participate in panel discussions. To provide further primary care expertise, primary care clinicians are invited to participate within the panel process.

- 4.3 The decision to appoint NWSSP L&R as the scheme operator for the Wales state backed GP indemnity Scheme has enabled shared learning between primary care and secondary care on an “All Wales” basis for the first time. This co-ordinated approach to learning from events enhances the working relationship between the GP Practices and Health Boards with a particular focus on working together to agree and implement actions to improve patient safety.
- 4.4 The GMPI Team has worked with Welsh Risk Pool and NWSSP’s in-house GP advisors/ PMCAT to develop and implement a tailored process for learning from events in primary care GP matters – including shared learning between primary and secondary care on an All Wales basis. Part of the procedure requires GP practices to commit to undertake any improvements identified and the Health Boards to monitor and verify the identified improvements. This training is being delivered across Wales.
- 4.5 To date, the GMPI Team has provided practical ‘hands on’ guidance to the GP Practices and Health Boards who are going through the “learning from events” procedure on claims. On a broader level, the team has met the Heads of Primary Care and Associate Medical Directors from Health Boards in Wales, presented at the Claims Management Safety & Learning Network Meeting and at the Heads of Patient Experience (HOPE) Network meeting and delivered an informal webinar to Betsi Cadwaladr University Health Board. These sessions were a useful way for GP Practice staff to meet the Health Board Local Claims Managers and Health Board clinical governance teams who will be required to work together in the claims and learning from events process.
- 4.7 On a practical level, in the Learning from Events Report, Health Boards report the issues that have been identified from a clinical claim and set out the actions taken to address the issues to reduce the risk of reoccurrence or reduce the impact of a future event. The Welsh Risk Pool monitors the themes and trends associated with the issues that are the subject of learning reports. The GMPI Team also monitor themes and trends arising out of patient concerns in order to feedback information to the Welsh Risk Pool for dissemination, for example in Welsh Risk Pool’s newsletter and to highlight specific areas for training.

- 4.8 It is hoped that this additional support service around learning from events will help to prevent claims arising against Practices and Health Boards in the first place.

## **5. The Coronavirus Pandemic**

- 5.1 The UK Government in consultation with the devolved nations developed the Coronavirus Act 2020 which gained Royal Assent on 25 March 2020. Clinical negligence indemnity relating to the pandemic in Wales is included at Section 11 of the Act.
- 5.2 The legislative mechanism underpinning the GMPI scheme enabled the Welsh Government to quickly establish emergency coronavirus indemnity. Furthermore NWSSP-L&R were able to make use of their communication channels to all GPs and GP practices in Wales to supplement the messaging from Welsh Government regarding the emergency actions being taken, thereby helping to maintain confidence for GPs and wider Primary Care.
- 5.3 NWSSP-L&R set up a dedicated Covid Hub led by a senior lawyer to deal with any queries on Covid indemnity. The GMPI Team also assisted GP Practices throughout the pandemic by answering queries surrounding indemnity and the implementation of the COVID vaccination rollout. The Team contributed to NWSSP's [Guidance on Indemnity Arrangements during the Coronavirus Pandemic](#) document which was initially produced at the start of the pandemic.
- 5.4 NWSSP-L&R has created a specialist COVID-19 legal team to deal with PTR matters and claims relating to COVID-19. The GMPI Team links in with the Covid19 Team on a regular basis to ensure consistency of advice and share best practice.

## **6. The Existing Liabilities Scheme**

- 6.1 Under the Existing Liabilities Scheme, the Welsh Ministers assumed the historic clinical negligence liabilities (i.e., those that pre date 1 April 2019) of Wales's GPs from participating MDOs. The aim was to ensure stability in the market for clinical negligence and maintain alignment with England thereby ensuring Ps in Wales were not disadvantaged in comparison with GPs in England. The ELS is subject to completion of due diligence and negotiation with the MDOs. Satisfactory ELS arrangements have been concluded with the Medical Protection Society and the Medical and Dental Defence Union of Scotland.

6.2 Detailed guidance on the ELS is available here.

<https://nwssp.nhs.wales/ourservices/legal-risk-services/legal-risk-services-documents/general-medical-practice-indemnity-gmpi-docs/scheme-guidelines/>

The indemnity provided under the ELS is of a discretionary nature (in the same way as the GMPI) and relates to claims for clinical negligence that relate to any incident giving rise to a claim that predates 1 April 2019. Details as to eligible and non-eligible areas are the same as the GMPI. The GP remains the named Defendant in the ELS Scheme.

6.3 The GMPI Team handle the ELS claims under an 'ELS Scheme of Delegation' approved by Welsh Government, the Trust Board at Velindre University NHS Trust and which is approved and overseen by NWSSP's Senior Leadership Group (SLG).

6.4 Whilst there have been discussions, no agreement has been reached with the Medical Defence Union (MDU) on an ELS. At present, a GP or clinician who was an MDU member at the relevant time would continue to contact the MDU for advice.

## **7. Customer Satisfaction and Stakeholder Interaction**

7.1 Feedback is obtained from GP Practices via 'Case Closure Client Satisfaction Questionnaires' that are issued at the end of an FLS claim. To date, all responses received indicate that the GP Practices were "Very Satisfied" with the overall management of the case/ the provision of advice giving the GMPI Team a rating of 5 out of 5 on the claims it has concluded to date.

7.2 In order to further inform this report and to obtain general feedback to help NWSSP-L&R improve the way it delivers its services, the GMPI team issued a short (anonymous) GMPI Client Satisfaction Survey (GP Survey) to all GPs, Locum GPs and GP Practices in Wales in May 2021, this was followed up to include those who had assisted in relation to GMPI FLS / ELS clinical claims and patient PTR concerns to gain a broader response rate. Overall, 82 responses were received, half of the people that responded had not had any previous contact with the GMPI Team.

7.4 The table below sets out the average star ratings received from GP Practice Staff and GPs (including locum GPs) in relation to NWSSP-L&R's assistance with GMPI FLS / ELS clinical negligence claims and PTR patient concerns:-

	<b>Average star rating for how satisfied with the service received the GMPI team</b>  5 = very satisfied 1 = very dissatisfied	<b>Average star rating for how easy it is to contact the GMPI team</b>  5 = very satisfied 1 = very dissatisfied	<b>Average star rating for how satisfied with GMPI response times</b>  5 = very satisfied 1 = very dissatisfied
<b>NWSSP-L&amp;R assistance with FLS / ELS clinical negligence claim</b>	4.6  74% rated 5 16% rated 4 5% rated 3 5% rated 2 0% rated 1	4.7  85% rated 5 5% rated 4 5% rated 3 5% rated 2 0% rated 1	4.5  68% rated 5 21% rated 4 0% rated 3 11% rated 2 0% rated 1
<b>NWSSP-L&amp;R assistance with FLS / ELS patient concern under PTR</b>	4.6  66.66% rated 5 26.66% rated 4 6.66% rated 3 0% rated 2 0% rated 1	4.4  53.33% rated 5 33.33% rated 4 13.33% rated 3 0% rated 2 0% rated 1	4.2  53.33% rated 5 13.33% rated 4 33.33% rated 3 0% rated 2 0% rated 1

7.5 The GMPI team received additional comments relating to its assistance with FLS and ELS claims / concerns as follows:

- *The GMPI service have been very supportive and prompt when requesting their help and advice. (Practice Manager)*
- *Always really helpful and advice has been sound and delivered in a timely manner. (Practice Manager)*
- *Very professional and helpful. (Practice Manager)*
- *Very good communication. (Practice Manager)*

- *Good service received. (GP)*
- *Excellent, timely response and thorough details provided (Practice Manager)*
- *We had got [an MDO] to read our response to the patient concern and when submitted to the GMPI the letter was altered and made I felt far more 'legalise' language, less understanding and more aggressive/defensive in tone which I felt was a shame. (GP)*
- *I have found the service to be excellent. The staff have all been very informative and helpful with a very friendly and approachable manner. Turnaround times are very quick from our perspective. (Practice Manager)*
- *Very helpful and timely responses (GP)*
- *Had problem with potential complaint and advice ensured that it was not taken further. Very satisfactory outcome and prompt response (Practice Manager)*
- *The adviser who I spoke to was very helpful, informative and reassuring. He dealt with my call within an hour of me contacting the service, which I thought was excellent. (Locum GP)*
- *We are having complaints handling training later this month from the Health Board (GP)*
- *Very supportive - plain English used when providing guidance. (Practice Manager)*
- *Good and thorough legal advice BUT long drawn out process which took us beyond deadline to answer complaint and as such i feel risked making the patient more annoyed (at US as GPs for being slow when in truth we were waiting on GMPI) (GP)*
- *Very good communication (Practice Manager)*
- *Always receive professional guidance from your knowledgeable advisers (Practice Manager)*
- *Recently had the complaint handling webinar, very well presented, tips on record keeping would help proactively (GP)*

- 7.6 The GP Survey showed there was a keen interest in further training including tips for handling patient concerns; a practical overview of the Scheme for GMPI; practical tips for record keeping and safety netting. The GMPI Team have already provided training on handling patient concerns and have further training planned.
- 7.7 Going forward the GMPI team will have an annual training programme, which will include the training topics set out above as well as GMPI refresher courses and learning from events. During 2021-22 the team will also develop a new communications plan with both stakeholders and ongoing communications. This will include looking at easier ways for GP Practices and other stakeholders to contact the GMPI Team.
- 7.8 The GMPI Team's training to GPs, GP Practices, GP trainees and Health Boards has received a good response from stakeholders. For example, training has been described as: excellent; relevant and useful content; delivered effectively; really informative and supportive. There were suggestions for some training to be slightly shorter; for small handouts and for more training to include case examples/factual examples (case studies were added to subsequent training).. Updated Quick Reference Guides to assist with responding to patient concerns were also prepared and sent to GP Practices regarding the:
- (1) [GMPI The Putting Things Right PTR Concerns Procedure Feb-2021](#)  
(2) [GMPI Responding to Concerns under NHS Wales Putting Things Right PTR Feb 2021](#)
- 7.9 Positive comments have been received to date from Health Board Primary Care colleagues and the Health Board Patient Experience/PTR Team contacts thanking the team for their advice and clarity; for help with matters and cases and for useful training e.g. on GMPI and Learning from Events in General Medical Practice.

## 8. Looking to the Future

- 8.1 The introduction of the GMPI has been a positive step for GPs and NHS Wales enabling lessons to be learnt and shared across primary and secondary care thereby supporting better patient care whilst GPs continue to be robustly defended against clinical negligence claims. It has addressed the risks associated with the rising costs of clinical negligence indemnity premiums. It contributes towards the long term sustainability of the provision of general medical service, ensuring that GP recruitment and cross border activity will not be adversely affected by different schemes operating in England and Wales.

- 8.2 The FLS set up phase is complete with processes embedded and adhered to. GP Practices and Health Boards are using the GMPI helpline and utilising the GMPI team with complex patient concerns to request assistance. The FLS claims are increasing and good results have been achieved to date with GP Practices reporting back that they were very satisfied with the GMPI Team's assistance in those claims.
- 8.3 The ELS files have been successfully transferred to NWSSP-L&R and are now being managed on a day to day basis by NWSSP-L&R in accordance with the ELS processes put in place.
- 8.4 Given its history, experience and in-depth knowledge of the NHS in Wales, NWSSP-L&R is uniquely placed to perform the role of operator of the two indemnity schemes for GPs in Wales. Going forward, the GMPI Team will continue to work with Welsh Risk Pool and GP in-house advisors/PMCAT to identify and feedback risk issues for learning and safety improvement in Primary Care whilst continuing to defend GPs against claims for clinical negligence.
- 8.5 The GMPI Team will continue to work closely with GP Practices, Health Boards and NHS Trusts to promote closer links and collaboration between primary care and secondary care to help to improve patient safety.