

NWSSP Legal and Risk Services

Scheme for General Medical Practice Indemnity Guidelines

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Introduction

In 2018 the Wales Government decided to establish a discretionary state-backed scheme of indemnity provision for General Practitioners on Welsh Medical Performers Lists and their staff (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 – Guidance notes for the Scheme for General Medical Practice Indemnity (GMPI)**.

NHS Wales Shared Services Partnership Legal and Risk Services (L&R) has been commissioned to manage the scheme, utilising and expanding upon the existing skills of the L&R team within NWSSP in managing secondary care related clinical negligence claims.

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. 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 strategy from General Medical Practices and their staff. Although the Health Boards will be the client for the purpose of the litigation, the views of individual staff involved will be taken seriously and they will be treated fairly and reasonably.

This document describes 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 policy that are being issued by the Welsh Ministers in the exercise of their powers to create the scheme under the

Governments of Wales Acts and under NHS Wales Act 2006. It includes operational protocols which outline the relationships between L&R and key stakeholder groups. These include General Medical Practices, Health Boards, Medical Defence Organisations, Welsh Government and GPC Wales.

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 Medical Primary Care Services. Some aspects of GP work will not be covered by the scheme, for which membership of a Medical Defence Organisation 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.

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).

It is intended that there will be an All Wales Locum Register for Wales and that all GP Locums registered with and working to the terms of that Register will be covered by this scheme.

1. First contact and triage

L&R will be the first point of contact for a General Medical Practice when a matter arises that could proceed to litigation. This may be obvious from the outset, for example receiving a formal solicitor's Pre-Action Protocol Letter 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'.

Box A identifies issues that would be in scope.

Box B identifies issues that are unlikely to be in scope

Box A In Scope

NHS General Medical Practice Services involving:

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

Box B Out of Scope

- PSOW (Ombudsman) Issues (non-clinical)
- Acting for GPs as interested parties in inquests
- Employers, Occupiers or Public Liability
- Non GMS Contract clinical work related
- Regulator (e.g. GMC/NMC/HCPC) 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)

Triage

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

Web pages about the scheme can be accessed via our main website here:
<http://www.nwssp.wales.nhs.uk/legal-risk>

It is anticipated that in most cases, General Practitioners will have 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 **Interaction with Defence Organisations** for more information.

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

- Step 1: General Medical Practice (or occasionally the Health Board) informs L&R of a potential clinical negligence claim
 - **Telephone** – 029 2090 5454 during office hours 9.00am – 5.00pm
 - **Email** – GMPI@wales.nhs.uk

Appendix A – Scheme for General Medical Practice Indemnity (GMPI) sets out detailed guidance as to when and how a matter should be reported to L&R and what happens next.

There are specific timeframes for General Medical Practices to report to L&R depending on the situation. For example, a demand for compensation should be reported to 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 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 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]
- L&R secure web portal [internet access required], please contact the 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.

L&R will complete a pro forma, **GMPI Contact & Information Form** completing the information so far as possible, see Appendix B. Or if preferred the person requesting support may complete the form, (available on the L&R website:

<http://www.nwssp.wales.nhs.uk/general-medical-practice-indemnity>) and send to L&R as detailed above.

L&R will verify that the matter reported falls within the scope of the scheme and subsequently contact the General Medical Practice by email or telephone within 3 standard business days to confirm the position.

- Step 2: L&R informs the Local Health Board Patient Experience/Putting Things Right Team of a claim or potential claim.
- Step 3: 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: L&R assigns the matter internally to a Solicitor for investigation and claims management

During the process, L&R will need to obtain all information necessary from the General Medical Practice to make the decision about indemnity and to assign the claim to the correct process. This will be done in liaison with the Health Board.

L&R will aim to inform the General Medical Practice and the Health Board within 10 working days of:

- L&R file reference and case handler
- The decision on indemnity
- The next steps.

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 which a decision might be made not to indemnify include:

1. A significant history of the General Medical Practice 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 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 L&R in the litigation process which prejudices the ability to manage claims effectively and efficiently.

Any decision not to indemnify will be made by the Health Board under the advice of L&R. The General Medical Practice may appeal in writing to 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 L&R and both the relevant Health Board's Executive Leads for Primary Care and Legal Services or their deputies.

- Step 5: L&R Solicitor advises the Health Board and the General Medical Practice whether complaint only or claim that can be dealt with under Putting Things Right or via litigation.

Where a claim is managed via the Putting Things Right process or the litigation claim process, L&R will aim to keep the General Medical Practice and the Health Board informed of progress at least every 3 months and whenever there are key developments.

- Step 6: L&R will seek views on 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: L&R submits claim to WRP 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

<http://www.wales.nhs.uk/sites3/Documents/932/The%20NHS%20Concerns%2C%20Complaints%20and%20Redress%20Arrangements%20Wales%20Regulations%202011%20Inc%20SI%20Number.pdf>

Welsh Government PTR Guidance

<http://www.wales.nhs.uk/sitesplus/documents/861/Healthcare%20Quality%20-%20Guidance%20-%20Dealing%20with%20concerns%20about%20the%20NHS%20-%20Version%203%20-%20CLEAN%20VERSION%20-%202020140122.pdf>

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 L&R may seek guidance and assistance about complaints from their medical defence organisations, where they are likely to fall in scope, from L&R. For example, L&R may review a draft complaint response. L&R do not require the General Medical Practice to contact 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 harm or death, this should be notified to L&R in accordance with the reporting timeframes set out in Appendix A.

The General Medical Practice **must** contact L&R before issuing any complaint 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.

If a complaint is particularly complex or significant harm is alleged the General Medical Practice should refer to the reporting timeframes set out in Appendix A.

See **First contact and triage** for L&R contact details and the process to follow to seek assistance from L&R.

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 included within the Scheme for General Medical Practice Indemnity (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 the Scheme for General Medical Practice Indemnity, there may be circumstances in which a claim for financial compensation is valued at £25,000 or less (excluding CRU, NHS Charges and costs). L&R will consider in such cases whether it is appropriate to offer to engage in the Redress Process on a voluntary basis for such claims.

The process is 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

<http://www.wales.nhs.uk/sites3/Documents/932/The%20NHS%20Concerns%2C%20Complaints%20and%20Redress%20Arrangements%20Wales%20Regulations%202011%20Inc%20SI%20Number.pdf>

Welsh Government PTR Guidance

<http://www.wales.nhs.uk/sitesplus/documents/861/Healthcare%20Quality%20-%20Guidance%20-%20Dealing%20with%20concerns%20about%20the%20NHS%20-%20Version%203%20-%20CLEAN%20VERSION%20-%202020140122.pdf>

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 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 the PTR/Redress Process.

L&R will seek instructions from the Health Board and evidence and views on strategy from the General Medical Practice (e.g. witness statement, health records and trial prospects). This will take into account any statutory Duty of Candour which is planned to be enacted to accompany the provisions under PTR (TBC).

Where a claim is to be settled or defended via the Putting Things Right process or the litigation claim process, L&R will aim to keep the General Medical Practice and the Health Board informed of progress at least every 3 months and when there are key developments.

If a payment of over £1million is required at any stage of a claim (including damages, CRU, NHS charges and costs) 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.

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, 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 (Checklist S23)** 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, for General Practitioners use of the 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 HBs as options to restrict practice or remove from practice under the Medical Performers List Wales regulations.

The Health Board approach to some of these issues can be found in the recently updated (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.

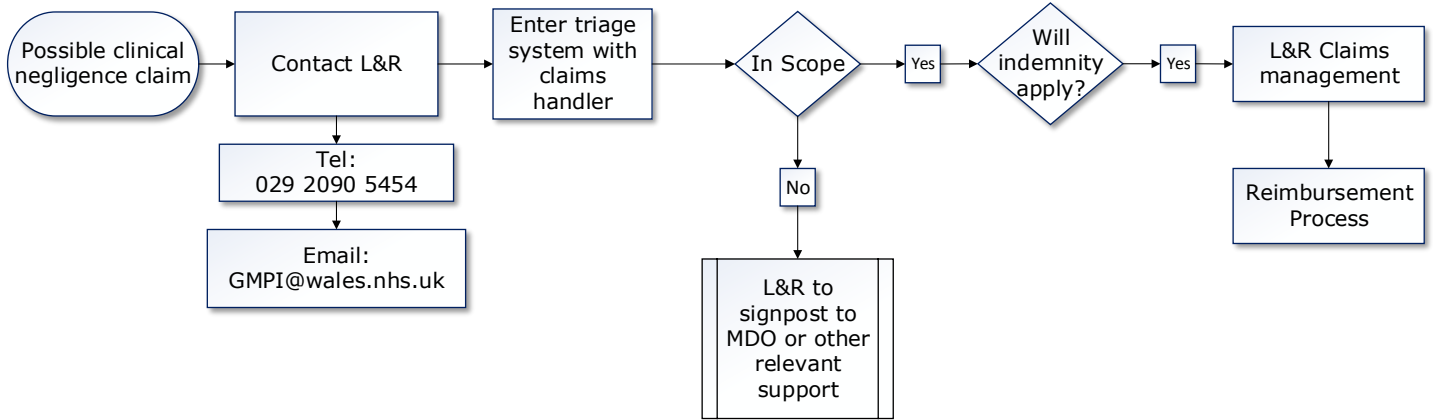
Box C

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

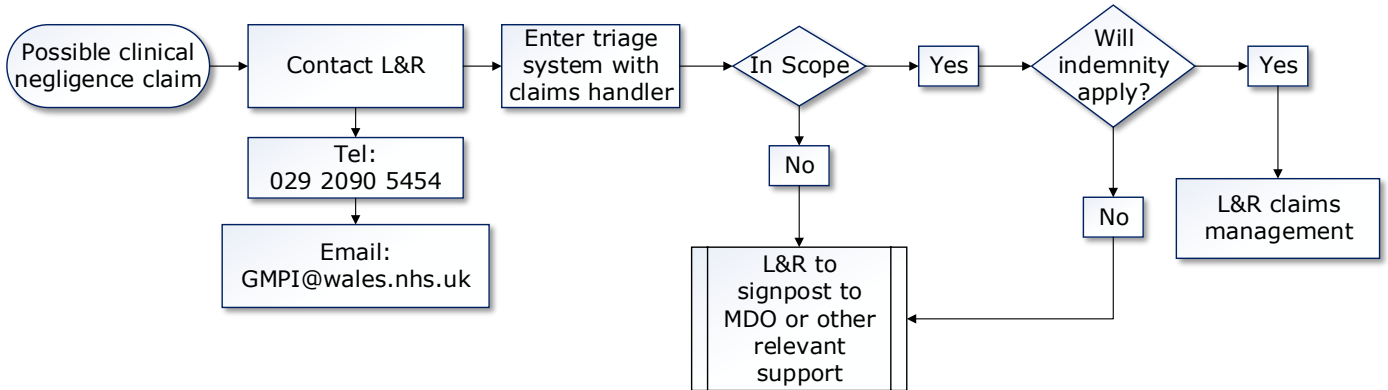
- GMS Contract Management / Monitoring
- Medical Performance List Management
- Clinician Appraisal CPD Cycle (monitoring process managed by HB)
 - e.g. Significant event reviews
- NRPPA Assessments
- PMCAT advice
- GP Further training practice network (HEIW)
- WRP Team Review
- GP cluster networks
- 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 (Checklist S1C)** must be completed and forwarded to the Welsh Risk Pool within 60 working days.

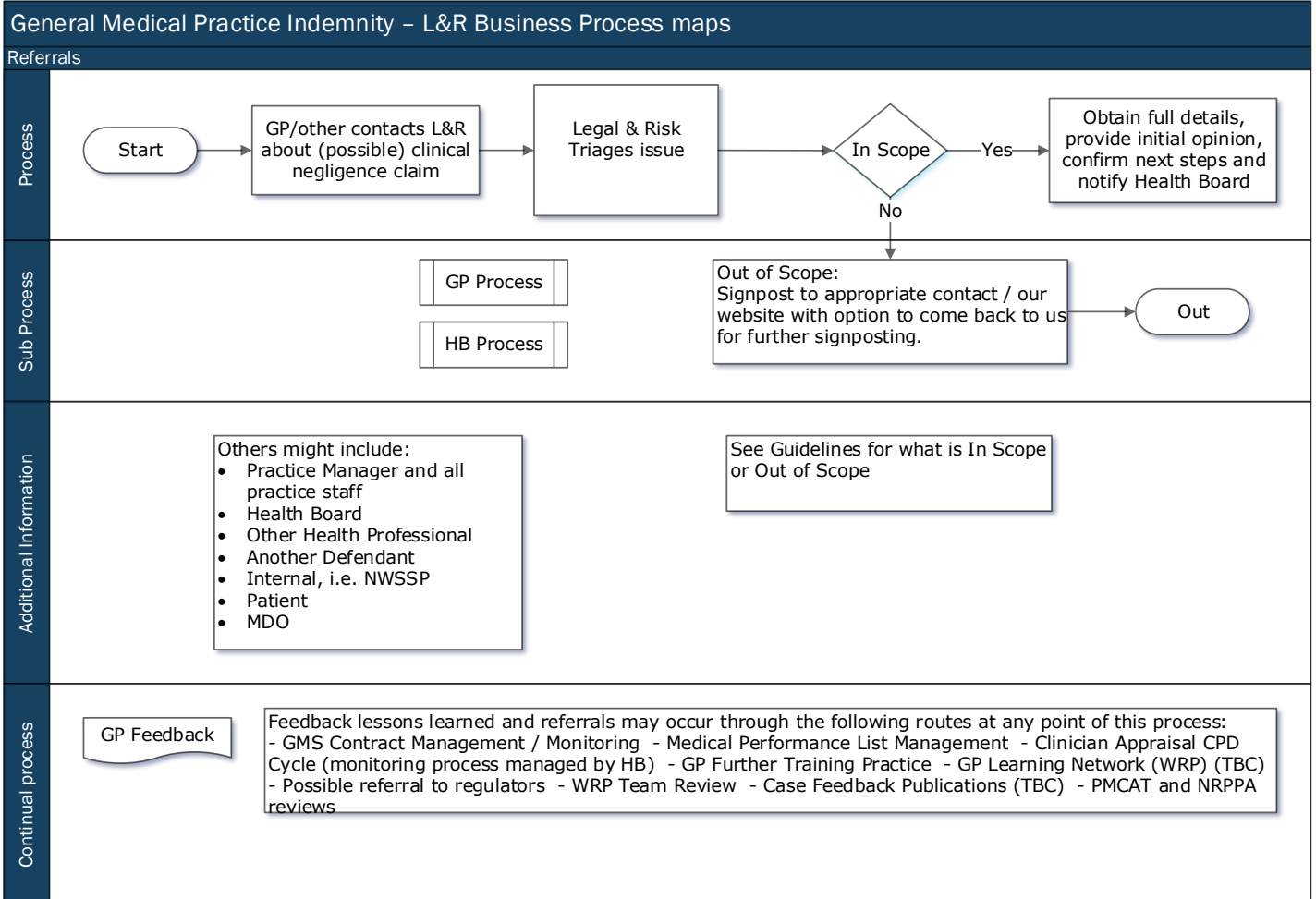
7. Health Board Process Map



8. Summary of Process for General Medical Practices



9. L&R Business process – Referrals

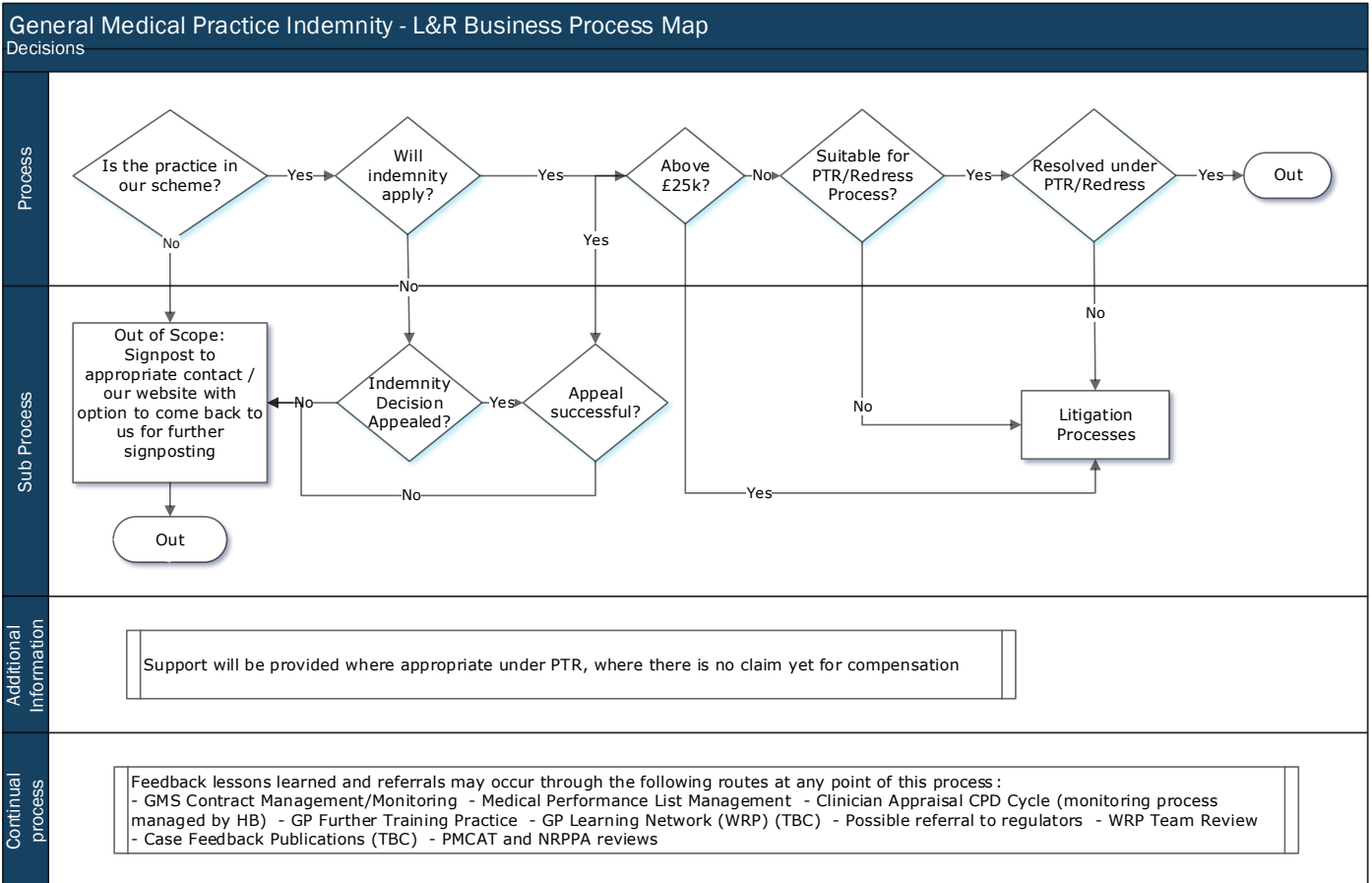




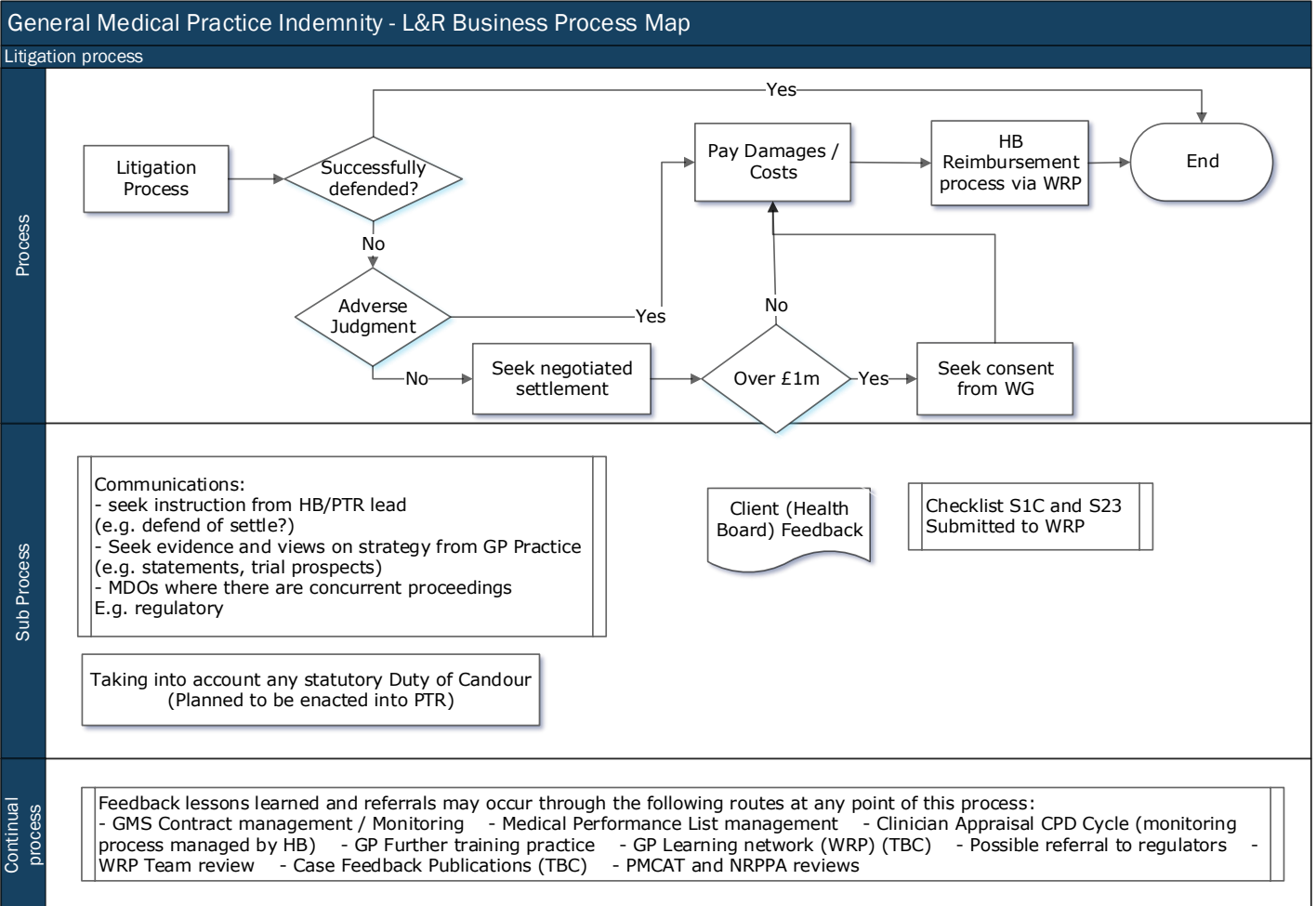
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Shared Services
Partnership
Legal and Risk Services

10. L&R Business process – Decisions



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 L&R GMPI Team and will provide contact details for L&R.

When a General Medical Practice contacts L&R with an issue that is out of scope L&R will advise the General Medical Practice to contact his/her MDO for advice and will offer the option to come back to L&R for further signposting if needed. If necessary, 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 L&R will liaise with each other as necessary and the General Medical Practice will be advised when to contact L&R or their MDO in those circumstances.

It may be appropriate for L&R and the MDO to share information such as statements, experts' reports, notes of an inquest etc. 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 L&R will act under the instructions of the Health Board.

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 L&R and it will liaise with NHS Resolution (NHSR).

Where treatment of a patient commenced in England and was continued by a General Medical Practice in Wales and a complaint or claim arises then the General Medical Practice should inform L&R and where appropriate L&R will liaise with NHSR.

If treatment is provided to an English patient by a General Medical Practice in Wales, the GP in Wales should contact L&R for advice.

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 L&R and to the General Medical Practitioner's indemnity provider in relation to any English care.

Cases involving cross border issues are likely to arise only infrequently. 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: Scheme for General Medical Practice Indemnity (GMPI)

Introduction

On the 14 May 2018, the Minister for Health and Social Services announced that The Welsh Government will 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 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 is also committed to introducing an Existing Liability Scheme (i.e. liabilities incurred before April 2019) on 1 April 2019, subject to the completion of legal and financial due diligence and satisfactory negotiation with the medical defence organisations. Further information will be made available in due course.

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

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

Scope of the Scheme

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 for NHS Work.

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).

For claims which concern incidents which happen before 1 April 2019, until further notice, you should go to your medical defence organisation (MDO) or 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 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. NWSSP will advise Locum GPs on the application process. Membership will be voluntary. For Locum GPs who do not wish to become a member of the All Wales Locum Register, they will need to arrange clinical negligence indemnity cover for NHS work through a medical defence organisation. NWSSP will need to be informed. The requirements for registration are currently being finalised by NHS Workforce. Details will be available shortly.

To register an interest to become a member of the All Wales Locum Register please contact the Employment Services Division of NHS Wales Shared Services Partnership:

Website: <http://www.nwssp.wales.nhs.uk/primary-care-sustainability>

Email: NWSSP.PrimaryCareWNWRS@wales.nhs.uk

Telephone: 01792 860498/0490

The delivery of General Medical Services in prisons will be covered within the GMPI. In addition, the GMPI will indemnify practitioners performing primary General 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 and 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 / Non GMS Contract 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 you or your 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
- Employers' liability claims
- Public liability claims
- Property or Occupiers' liability claims

Individual GPs and GMS 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 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.

Membership of 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.

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.

L&R will be able to identify those GPs and Health Professionals employed in GP practices who are covered by the scheme through the National Workforce Reporting System. Further information is available on the following website:

<http://www.nwssp.wales.nhs.uk/primary-care-sustainability>

Any enquiries should be sent to:

Email: NWSSP.PrimaryCareWNWRS@wales.nhs.uk

Telephone: 01792 860498/0490

When a claim should be reported

The aim of L&R is 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, with instructions obtained from Local Health Boards and evidence and views on strategy on managing the case from General Medical Practices and their staff.

Compensation will be paid where L&R investigation confirms that this is appropriate. Where that is not the case, L&R will defend the case under the instructions of the Health Board, calling upon the very best expertise to do so in order to robustly defend the case and to protect the reputation of the GP. In all cases, 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. L&R will work closely with the medical defence organisations to develop protocols for the coordination of any claims which may straddle the pre and post 1 April 2019 period.

For incidents where multiple issues may arise e.g. where there is both a claim and GMC involvement, L&R will work closely with your medical defence organisation subject to the consent of the GP and 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 or negligence / become aware of a matter that may give rise to a claim, it is important that you contact 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** - report the claim to your medical defence organisation
- Incidents occurring **on or after 1 April 2019** - report the claim to L&R
- Incidents occurring during both periods, or where it is unclear – report to L&R and to your medical defence organisation

You or your medical defence organisation should contact 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 	Report to L&R irrespective of whether or not a claim has been made or a disclosure request for patient records received.	As soon as possible but no later than 4 weeks.
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>	Report to L&R	As soon as possible but no later than 1 week from receipt of the disclosure or similar request.
3.	Any demand for compensation including but not limited to Letter of Claim, Claim Form, Particulars of Claim, Claim	Report to L&R	Within 24 hours of receipt.

	Notification Form, Settlement Offer, Part 36 Offer.		
5.	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 L&R	Before sending the item.
6.	Any intended offer of compensation or other redress (under Putting Things Right or otherwise).	Report to L&R	Before sending the item.
7.	Group Action relating to a clinical issue.	Report to 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 L&R, on behalf of that individual, and provide L&R with their details so L&R can contact them for assistance with any potential claim.

Reporting the above to 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 L&R?

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

1. Email – GMPI@wales.nhs.uk - setting out the basis of your enquiry and L&R will either respond by email or telephone to discuss the issue further. If preferred, complete the GMPI Contact & Information Form – see Appendix B which is available on the L&R website <http://www.nwssp.wales.nhs.uk/general-medical-practice-indemnity>

When reporting a matter to 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 patient sensitive data is encrypted (password protected);
 - 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 L&R Claims 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 L&R and what we need from you

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

When reporting a claim to L&R, complete the GMPI Contact & Information Form – see Appendix B 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 L&R, it will need to be verified that it falls within the scope of the scheme. L&R will contact you by email or telephone within 3 standard business days to confirm the position.

Once it is confirmed that a claim falls within the scope of the scheme, you will be allocated a dedicated solicitor 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, 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. L&R will aim to avoid formal court proceedings wherever possible. Your timely input to the investigation and resolution of the claim is critical. 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.

Appendix B – GMPI Contact & Information Form



Contact and
Information Formv4