

# Welsh Risk Pool Services and Legal & Risk Services **Annual Review 2021-2022**



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# Foreword

Members of the public in Wales are proud of, and thankful for, the services provided by their NHS and this was clearly evidenced by the gratitude and appreciation shown to the service and its staff during the pandemic.

During my career in the NHS, I have constantly been impressed with the dedication and expertise of the staff who work tirelessly to provide care and treatment when it is required and support our communities to improve their health and wellbeing. When compared to the number of patient contacts undertaken by NHS Wales each year, the number of times when problems occur, or things go wrong, is very small.



**Professor Tracy Myhill OBE,**  
Chair of NHS Wales Shared  
Services Partnership

However, for every time something does go wrong and harm occurs, or systems fail, the NHS must have robust processes to learn lessons, improve processes and share best practice. The Welsh Risk Pool and Legal & Risk Services play a vital role in supporting health bodies to investigate what has happened, put preventative measures into place where possible and achieve a satisfactory resolution for any person affected.

It is widely recognised that all areas of the NHS across the UK are experiencing a high level of claims. This is seen in NHS Wales. Whilst it is pleasing to note that the number of claims is not increasing in NHS Wales we must recognise that the value of individual claims does increase year on year. Successful claims provide some recognition and recompense for patients and families, although unfortunately cannot change what has happened. On average, 45% of personal injury and clinical negligence claims are successfully defended.

Using an entirely in-house legal service to manage clinical negligence and personal injury claims in NHS Wales, our professional influence is also achieving considerable savings to the Welsh taxpayer. The wide experience of the in-house legal service, in all areas of law affecting modern health bodies, provides rapid and effective advice to leaders throughout the NHS.

The Safety & Learning programme operated by the Welsh Risk Pool involves investing some of the money which would otherwise be spent on claims to achieve reductions in incidents and thus lead to improved services with fewer claims. The programmes are well respected amongst clinical teams in Wales and are having a genuine impact.



The most frequently occurring specialty for claims is in maternity services and it is vital we support health bodies to learn and improve from what has gone wrong in these cases. We have introduced the PROMPT Wales and Community PROMPT Wales programme and this important initiative was recognised when its lead, Midwife Sarah Hookes, was awarded the Wales RCM Midwife of the Year accolade.

The introduction of the Putting Things Right regulations in Wales ten years ago has provided a system for the smooth and effective resolution of concerns raised by patients and their relatives whilst reducing the burden of legal costs on the NHS. With the responsibility for reimbursing expenditure for redress cases now placed with the Welsh Risk Pool, the team is able to provide a fuller picture of the causal factors and lessons learned which arise from redress cases as well as claims and continue to work with local clinical teams to identify areas for improvement.

The General Medical Practice Indemnity Scheme, operated by Legal & Risk Services, was introduced in 2019. This team works closely with primary care services to help with investigations and reduce the potential for litigation in this area. This scheme introduces national scrutiny of lessons learned within the primary care sector for the first time.

I am very proud of the work done by the Welsh Risk Pool and Legal & Risk Services working with colleagues across the NHS in Wales. The purpose of this report is to outline the current position and forecast for claims and redress cases and to outline the incredible work that the team does every day.

My senior team will be working with every Board in NHS Wales to maximise learning and to improve quality and safety, using the data related to each individual health body to the maximum possible.



### About Tracy Myhill

Tracy was appointed Chair of NWSSP in 2021 having previously retired from the NHS following a career that spanned 37 years. Beginning her career as a receptionist in Cardiff's Dental Hospital, Tracy progressed into the human resources sector and held roles at local and national level. She has previously worked as Chief Executive of the Welsh Ambulance Service NHS Trust and of Swansea Bay University Health Board.





# Our Services



The Welsh Risk Pool is a mutual body which supports all health organisations in NHS Wales by administering the risk pooling scheme, which provides the means by which all Health Boards, Trusts and Special Health Authorities in Wales are able to indemnify against risk.

The role of the Welsh Risk Pool is to have an integrated approach towards risk assessment, claims management, reimbursement and learning to improve. The team works with NHS colleagues across Wales to promote and facilitate opportunities to learn and support the development and implementation of improvements to enhance patient and staff safety and clinical outcomes.

Legal & Risk Services provide legal advice and representation for all health bodies in Wales. With specialist experience, knowledge and understanding of the legal, administrative and policy issues that affect the operation of the NHS in Wales, the Legal & Risk teams are able to support organisations in providing safe and efficient health and care services to the population of Wales.



## Welsh Risk Pool



### Reimbursement

We reimburse losses and special payments incurred by health bodies in accordance with the WRP Reimbursement Procedures.



### Safety & Learning

We scrutinise the learning from events relating to claims and redress cases. We coordinate a national learning advisory panel to consider and share best practice and lessons learned from cases.



### Consent

We coordinate the all-Wales approach to Consent to Examination & Treatment, provide a national training solution for clinicians involved in the consent process and procure a library of approved consent information leaflets to support clinicians in ensuring patients can give informed consent.



### PROMPT Wales

We coordinate the all-Wales approach to PROMPT Wales and Community PROMPT Wales, which delivers obstetric emergency training to midwives, obstetric doctors and anaesthetists involved in maternity care.



### Once for Wales Concerns Management System

We lead the design, implementation and use of the Once for Wales Concerns Management System, which provides consistency in the platform for capturing, investigating and reporting on all concerns in health bodies and primary care.



### Specialist Investigation Support

Using the vast clinical experience across NHS Wales, we support health bodies with complex and organisational investigations where the independence of the WRP can add value.



### Concerns Management Training

We provide training to claims managers, redress case managers and staff involved in coordinating inquest cases.



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## Legal & Risk Services



### General Medical Practice Indemnity

A team of highly skilled solicitors with a particular focus and expertise in managing clinical negligence claims arising from primary care practice.



### Commercial, Regulatory and Procurement

A team of highly specialised lawyers who support health bodies in managing these issues in a practical and timely manner.



### Clinical Negligence

A department of in-house solicitors and legal support staff who manage the clinical negligence caseload across all health bodies. We aim to handle claims proactively, fairly and consistently.



### Complex Patient (Court of Protection)

A team of very experienced healthcare lawyers who provide rapid advice to ensure NHS staff are able to comply with legal requirements and deal with complex legal issues regarding the provision of care and treatment.



### Employment

A team of solicitors and legal executives advising on high level strategic policy matters, case management and tribunal hearings.



### Personal Injury

This team have intimate knowledge of the NHS enabling swift and efficient advice on managing claims and providing expert advice on reduce risks in the workplace.



### General Healthcare Advice

A wide spectrum of issues can be faced by health bodies and clients. This team draw from the diverse experience within Legal & Risk Services to provide timely advice.



### Property acquisitions, disposals and leases

This highly specialised team work closely with Specialist Estates Services to support all health bodies on matters relating to the NHS Wales estate.



### Inquests

Our inquests team offer full support to our clients, from initial investigations through inquest hearings and beyond.



### Putting Things Right

We offer a flexible and hands-on approach to health bodies in dealing with matters under the PTR regulations.



# Our People



## Mark Harris

Mark Harris is the Director of Legal & Risk Services and the Welsh Risk Pool. Mark has an LLB law degree, an LLM Master's degree in Commercial Law/Marine Affairs and a Postgraduate Certificate in Health Service Management.

Having worked in Legal & Risk for over two decades, Mark has vast experience of working on clinical negligence and general advisory matters and was a Team Manager and the Deputy Director of the service prior to being appointed as the Director.

Mark's areas of special interest are clinical negligence claims, health funding disputes and governance. Mark has provided legal advice on a very wide range of one-off legal conundrums that face NHS bodies in their day-to-day business, having advised on a multiplicity of individual legal issues in the last decade. Mark led Legal and Risk Services' engagement with Welsh Government to implement the GP indemnity scheme which commenced in 2019.



## Daniela Mahapatra

Daniela Mahapatra is the Deputy Director of Legal & Risk Services. Daniela qualified as a Solicitor in 2005. She obtained her LLB Law degree at the University of Wales, Swansea, before moving to Cardiff to undertake the Legal Practice Course. Practicing in employment law, Daniela advises all health bodies in Wales in complex employment cases.

Daniela is a member of the HPMA Wales Committee, arranging various training events for the NHS Wales HR workforce (Workforce & OD).

In May 2016, Daniela was elected as the Wales representative for the Employment Lawyers Association. As part of this role, Daniela assisted with the roll out of the Employment Tribunal Litigants in Person Support Scheme (ELIPS) in the Wales Employment Tribunal, which provides free assistance to unrepresented litigants (claimants and respondents) at the Employment Tribunal.

Daniela has taught the Employment Law module on the HRM course at the University of South Wales. Daniela is also a mentor as part of the Coleg Y Cymoedd mentoring scheme.



### **Sarah Watt**

Sarah Watt is the Head of Healthcare Litigation, the strategic lead for clinical negligence claims, Putting Things Right and Public Inquiry work. Sarah has a LLB Law Degree, Law Society Finals Examination pass and Level 5 Qualification from the Institute of Leadership and Management.

Sarah joined Legal & Risk Services in 2003 after working for leading UK healthcare law firms. She became a Team Leader in 2005 and was appointed Head of Healthcare Litigation in 2021.

Sarah is particularly experienced in high profile investigations, very high value claims and is leading the work to support health bodies giving evidence to the coronavirus public inquiry.



### **Jonathan Webb**

Jonathan Webb is the Head of Safety & Learning and is the operational lead for the Welsh Risk Pool. Jonathan is a Registered Paramedic, an experienced Clinical Mentor and has worked in the NHS since 1990. Having completed a degree in Education at Wolverhampton University and studied Management at University of Reading Henley Business School, Jonathan has completed a Master's degree in Occupational Health & Safety at Loughborough University.

Prior to joining Legal & Risk Services in 2016, Jonathan was Head of Risk Management in an English Acute Trust where he developed an investigation training programme for clinical leaders. He has previously held a similar role in the Channel Islands, where he was responsible for coordinating a States-Wide Risk Register & Assurance Programme. Jonathan's role focusses on scrutinising and sharing lessons learned from claims and redress cases, delivering bespoke programmes to address areas of litigation, leading the Once for Wales Concerns Management System and coordinating assessments of health bodies' systems for handling concerns.



## **Sue Saunders**

Sue Saunders is the Head of Finance for Welsh Risk Pool. The financial functions of the Welsh Risk Pool and Legal & Risk Services are coordinated by the Corporate Finance Team within NHS Wales Shared Services Partnership. Sue is responsible for the Welsh Risk Pool and Legal & Risk accounts. Chairing the sub-Technical Accounting Group for Welsh Risk Pool matters, Sue ensures that the application of financial principles is consistent throughout NHS Wales.

A qualified accountant, Sue has many years of experience in NHS accounting and supports health bodies with their financial returns relating to the Welsh Risk Pool to Welsh Government.

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Our people are our biggest asset in the Welsh Risk Pool and Legal & Risk Service.

With over 125 whole time equivalent solicitors, chartered legal executives, pre-qualified lawyers and support staff, the Legal & Risk service is able to support all health bodies in NHS Wales in all areas of law.

With twelve whole time equivalent established staff and a flexible workforce of bank and seconded colleagues, the Welsh Risk Pool is able to draw on clinical and operational experience from across NHS Wales to deliver its services.



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## **Welsh Risk Pool Committee**

Decisions in relation to the reimbursement procedures, workplans for reviews and the reimbursement of claims & redress cases are taken by a national committee drawn from executive and associate roles from Health Bodies and Welsh Government. Members represent their roles and peers across Wales rather than their individual organisation.

Acting as a sub-committee of the Shared Services Partnership Committee, the Welsh Risk Pool Committee ensures consistency in decisions and effective scrutiny of this complex sector.



# Our Caseload



The majority of people who receive care from NHS Wales receive an excellent service that is provided by a dedicated and well-trained workforce. Whilst NHS Wales should be justifiably proud of its achievements, there is no room for complacency and occasionally mistakes happen or processes and systems fail, which can lead to claims being paid to patients or staff affected or expenditure on redress.

In addition to the harm experienced by those involved in events which lead to litigation, every penny spent on claims and redress cases cannot be spent on providing health and care in NHS Wales.

The Welsh Risk Pool and Legal & Risk Services will continue to work carefully with each party in every matter to achieve the right resolution in the case and a fair outcome for all parties.

Through the process of learning from events, causal factors that have led to a claim or redress case are identified and learning or improvements put into place to reduce the potential for repeat events.

## Claims & Redress Case Profile

The profile of cases managed by the Welsh Risk Pool and Legal & Risk Services relate to clinical negligence, personal injury and redress matters.

The Welsh Risk Pool administers the risk pooling arrangement and meets the cost of financial losses for claims over £25,000 and all reimbursable expenditure on redress cases. The most significant element of expenditure relates to clinical negligence matters.

Clinical negligence and personal injury claims are managed using the legal processes outlined in the pre-action protocols and legal procedures issued by the courts of England & Wales. If a claim proceeds to court, the conduct of the claim is coordinated by a judge.

Redress cases are conducted using the requirements set out in the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011, which are known as the Putting Things Right Regulations, and these have a published legal guidance which sets out the expectations of parties.



## Clinical Negligence Matters

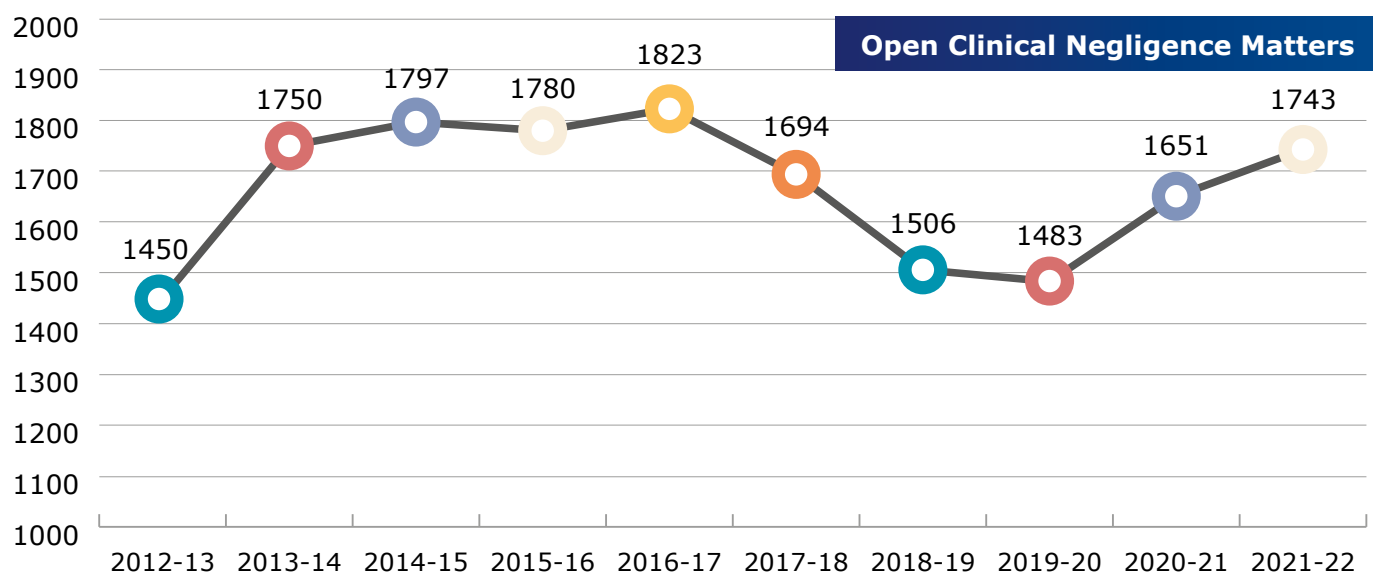
The number of substantive open clinical negligence cases at the end of each financial year provides a useful indicator of the current clinical negligence caseload pressure experienced by NHS Wales. This data for the last ten years is shown in Fig1. These figures do not include cases from the Scheme for General Medical Practice Indemnity, which are managed separately.

Some cases remain open for a considerable period of time, as matters are analysed and financial values determined. Some more complex cases can remain open for over ten years.

There was a spike in cases as we approached 2013 because of a rush by Claimant's solicitors to open new cases before conditional fee agreements were abolished by a change in the law.

We also changed our methodology for opening new cases from 2017/18 - only accepting those with a letter of claim or that fell into the criteria for our early reporting scheme, where we require health bodies to inform us of specific incidents as they occur. Prior to that we accepted matters even if there was not yet a letter of claim, such as pre-action disclosure requests. We have done our best to exclude these essentially non-substantive matters within the numbers shown in Fig1. However, the way the data is held presents some challenges to easy to identify these matters. Therefore, there is a chance that some remain included in the data prior to 2017/18.

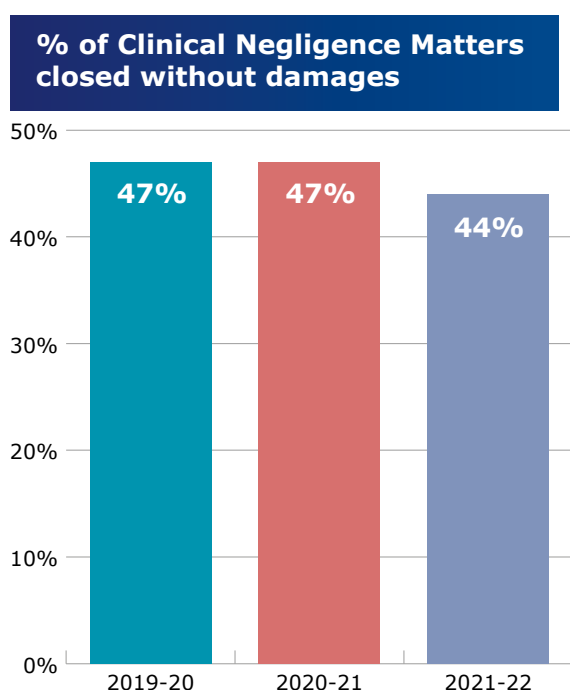
Due to the duration of some cases remaining open, the spike in cases around 2013 and the change in methodology of accepting cases in 2017, it is not possible to identify an overall determinable trend in case numbers. There is, however, an increase in the complexity and value of cases, with a consequential financial impact to NHS Wales.



**Fig1 Open Clinical Negligence Matters**

On behalf of NHS Wales, Legal & Risk Services carefully investigates all matters brought against health bodies and is successful in defending cases where this is possible, which reduces avoidable costs for the Welsh taxpayer.

Fig 2 provides a summary of the number of cases closed without damages over the last three years. This shows that we are consistently defending approximately 45% of cases.



**Fig2 Percentage of Clinical Negligence Matters closed without damages paid**

NHS Wales undertakes a wide range of clinical procedures and provides care and treatment in a wide array of clinical settings. Claims may arise from any clinical contact and the Welsh Risk Pool monitors the distribution of the principal clinical specialties identified in a claim.

The most frequently occurring specialty relating to clinical negligence claims is maternity services, which includes obstetrics and midwifery-led services. These represent 17.73% of all clinical negligence cases being managed by Legal & Risk Services during 2021/22. The Welsh Risk Pool has invested significantly to work with clinical teams in maternity services across NHS Wales to address the causal factors for claims.

Matters relating to the assessment, treatment and surgery, in orthopaedic and trauma cases represent 13.51% of all clinical negligence cases being managed by Legal & Risk Services during 2021/22. These matters include the wide range of orthopaedic procedures which are conducted by NHS Wales.

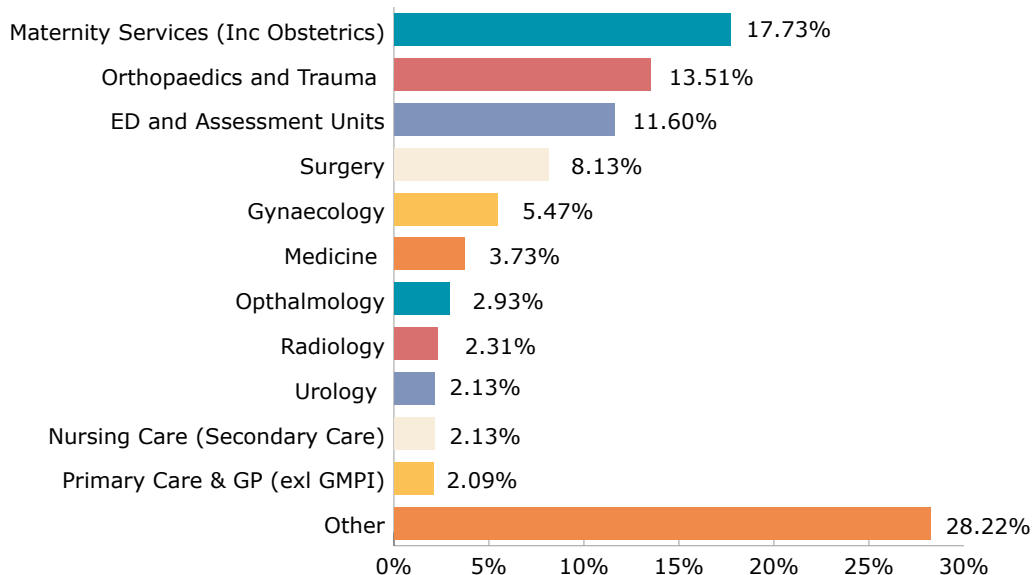
Many patients present to emergency departments, specialist assessment units and minor injury services and claims related to these settings represent 11.60% of all clinical negligence matters being managed by Legal & Risk Services during 2021/22.

The list of specialties captured by the Welsh Risk Pool and Legal & Risk systems relate to a bespoke list that was first utilised in approximately 2000. With the introduction of a new electronic Case Management System over the next few years, it is anticipated that the speciality data will be published in future using the national NHS Wales list as far as possible and that this will help organisations to extrapolate and use data from a range of performance and quality management sources.



Fig3 outlines the distribution of the top ten clinical specialties in clinical negligence and Table1 provides a breakdown of all clinical specialities.

### Principal Clinical Specialties in Clinical Negligence matters 21/22



**Fig3 Breakdown of Principal Clinical Specialties in Clinical Negligence matters**

Principal Specialty in Clinical Negligence matters	%	Principal Specialty in Clinical Negligence matters	%
Admin, Estates & Business Services	0.13%	Mental Health & Psychology	2.31%
Ambulance / Paramedics	1.24%	Nephrology	0.49%
Anaesthetics	0.80%	Neurology	1.07%
Audiology	0.04%	Neurosurgery	1.11%
Cardiology	1.42%	Nursing Care (Secondary Care)	2.13%
Cardiothoracic Surgery	0.36%	Oncology	1.42%
Colorectal Surgery	0.76%	Ophthalmology	2.93%
Cytology	0.31%	Oral & Maxillofacial Surgery	0.44%
Dental	0.49%	Orthopaedics & Trauma	13.51%
Dermatology	0.53%	Paediatrics	2.84%
District Nursing & Health Visiting	0.36%	Pathology, Histology & Microbiology	0.40%
Ear Nose & Throat	1.51%	Physiotherapy	0.53%
Emergency Dept & Assessment Units	11.60%	Plastic Surgery	0.13%
Gastroenterology	1.16%	Podiatry	0.18%
Genetics	0.09%	Primary Care (excl GMPI)	2.09%
Genitourinary Medicine	0.13%	Radiology	2.31%
Geriatric Medicine	0.44%	Respiratory	0.36%
GP Out of Hours	0.36%	Rheumatology	0.27%
Gynaecology	5.47%	Speech Therapy	0.04%
Haematology	0.53%	Surgery	8.13%
Maternity Services	17.73%	Urology	2.13%
Maxillofacial	0.44%	OTHER / UNSPECIFIED	5.51%
Medicine	3.73%		

**Table1 Summary of Principal Specialties in Clinical Negligence matters**

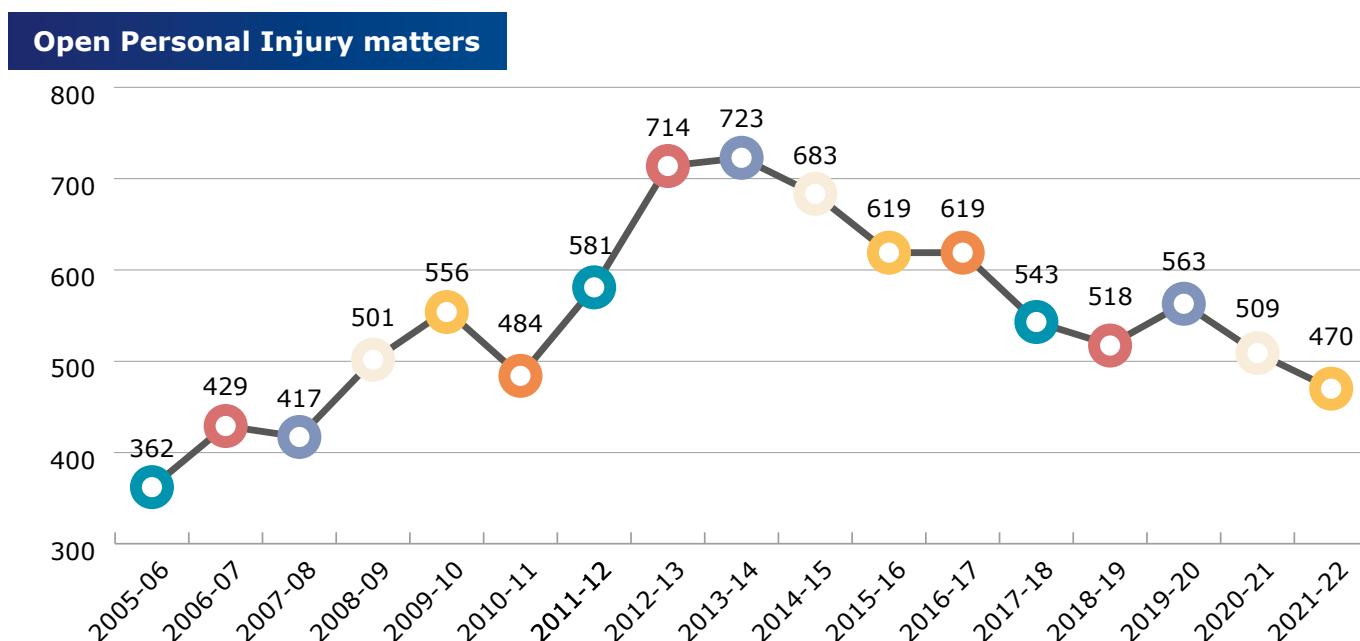


## Personal Injury Cases

In addition to claims for alleged clinical negligence, the Welsh Risk Pool and Legal & Risk Service also deal with matters of public liability, occupier's and employer's liability brought against NHS Wales health bodies. These can be complex matters involving the gathering of evidence relating to operational issues, health & safety compliance and risk assessments.

At the end of 2021/22 there were 470 open personal injury matters against NHS Wales and there is an upward trend in personal injury matters since 2005. There was a peak in new personal injury matters opening in early 2013 caused by the approach of fixed recoverable costs and a change to the law which limited the grounds on which personal injury claims could be brought.

Fig 4 shows the number of open personal injury matters since 2005. We are reliably able to report this far back because historically we have only opened personal injury claims on receipt of a letter of claim.



**Fig4 Open Personal Injury matters**

The Legal & Risk Services team work closely with managers within health bodies to defend cases where this is possible, reducing the burden of legal costs to organisations. NHS Wales has successfully defended over 45% of personal injury cases. Fig 5 shows the continuing positive trend in successfully defended personal injury claims.



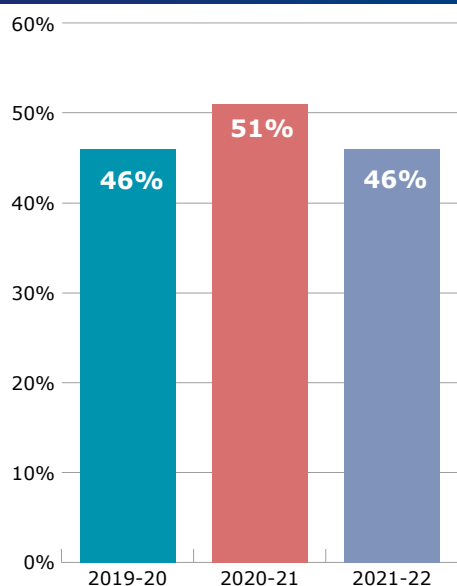
### EXAMPLE CASE – claim successfully defended at trial

A claim was brought by a former employee of an organisation which provides services to all health bodies in NHS Wales, stating that they had injured their knee due to poor parking and access arrangements at the hospital they were deployed to. The claim was strenuously defended and proceeded to trial in January 2022.

The Judge found that the employing organisation and the hospital had reasonable measures in place, the former employee had received sufficient training and there were suitable arrangements for escalating issues. The claim therefore failed, and no damages were awarded.

Fig 5 shows a gradual increase in successfully defended personal injury claims.

### % of Personal Injury matters closed without damages



**Fig5 Percentage of Personal Injury matters closed without damages**





## Redress Cases

The National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 places duties on health bodies to consider payment of appropriate redress in matters where there is a qualifying liability. The Regulations require health bodies to consider redress in circumstances where harm is alleged and the likely value of any claim would not exceed £25,000 in damages. Dealing with these cases in this way has a significant impact in reducing the legal costs associated with claims brought in the traditional way and provides an effective resolution for those affected and achieves significant savings for the NHS.

Cases that may lead to consideration of redress include incidents reported by staff within organisations and complaints received from service users or their representatives. Health bodies are required to investigate matters and to determine whether there is a qualifying liability.

Since 2018, the Welsh Risk Pool has been allocated responsibility for the scrutiny of learning and reimbursement of expenditure incurred by health bodies in relation to redress cases.

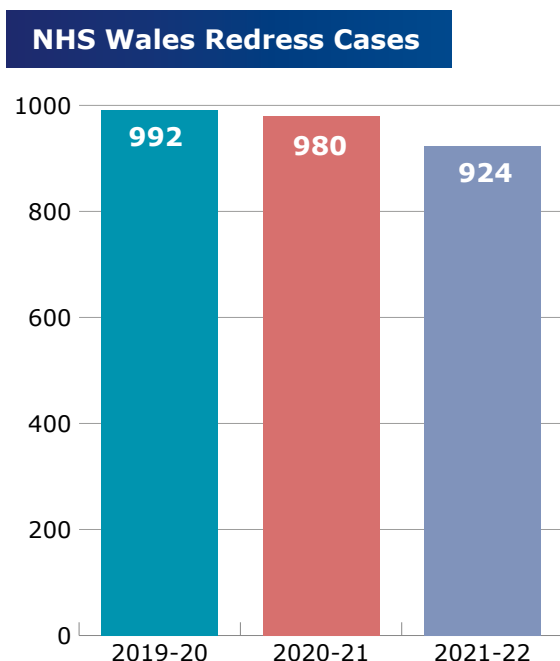
Redress cases are managed locally by specialist teams within health bodies. The Legal & Risk Service has a specialist team which advises and supports organisations in relation to redress matters. Formal reviews by the Legal & Risk team are required in all cases where a proposed damages payment exceeds £25k, where payments to the UK Government Compensation Recovery Unit exceeds £3k and in all cases where qualifying liability is considered to have been met in a matter relating to the coronavirus pandemic.

From 2019, health bodies have been required to provide information on their current caseloads to assist with planning and budgeting. This provides an insight into the progress of matters across NHS Wales.

In 2021/22, a total of 924 redress cases were being managed by health bodies in NHS Wales. This represents a 6% reduction in the overall caseload and follows a small reduction in 2020/21.

The reduction that has been seen can be attributed to a reduction in incident and complaint investigations during the pandemic and it is expected that 2022/23 will see a sharp increase in the caseload.

Fig6 outlines the redress caseload over the last three years.



**Fig6 Redress Cases for last 3 years**

Considering the clinical speciality to which a redress case relates is a useful indicator of themes and trends.

Traditionally, each health body has considered redress cases in relation to its own list of specialties which do not align to provide a national picture. With all organisations now utilising the Once for Wales Concerns Management System to capture and manage redress cases, it is anticipated that a national picture will be available from 2022/23.

From case analysis, the most commonly occurring specialties within redress cases are Emergency Department, Orthopaedics, and General Surgery.



## Periodical Payment Orders

In the vast majority of personal injury and clinical negligence matters, settlement as damages is made in the form of an immediate payment of a lump sum directly to the claimant.

In matters in which the court is making an award relating to future pecuniary loss, it may order that the damages take the form, whether wholly or partly, of periodical payments. The Damages Act 1996 empowers the court in personal injury & clinical negligence proceedings to make a periodical payments order, a lump sum award or a combination of the two.

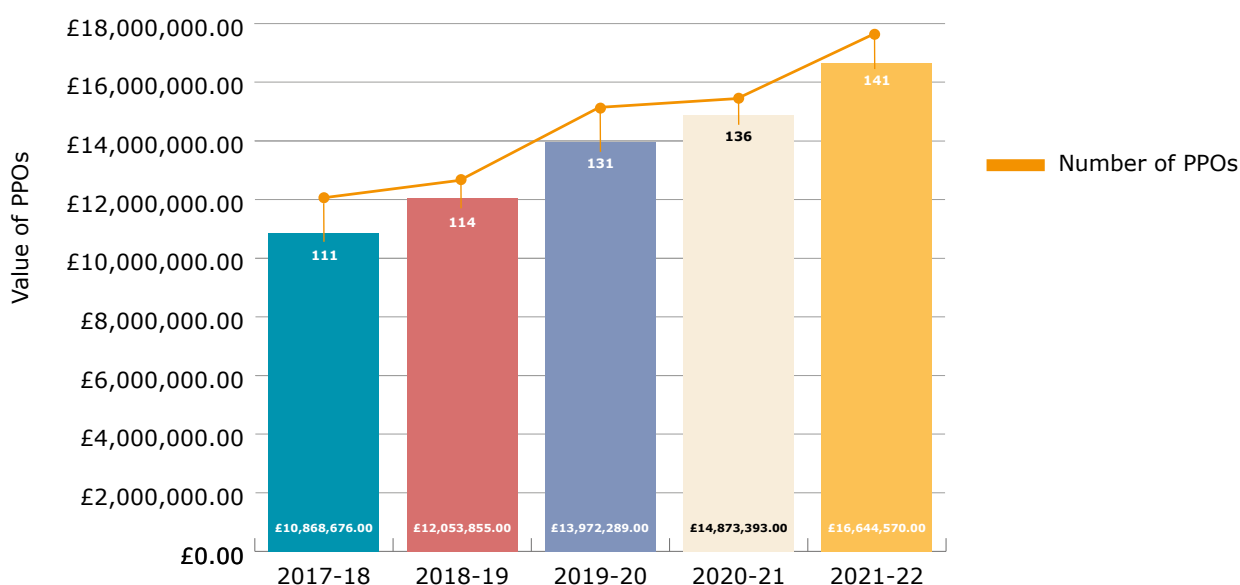
Periodical Payment Orders are generally seen in cases where a payment is needed to provide care and support for a claimant over a sustained period of time.

The payments are index-linked, rising by an agreed inflation measure each year to ensure that the claimant receives an appropriate sum to meet their needs.

The Welsh Risk Pool administers all Periodical Payment Orders for NHS Wales health bodies. At the end of 2021/22, there were a total of 141 active Periodical Payment Orders (PPOs). Seven PPO arrangements have been agreed in cases which settled recently, but which the payment has not yet started. PPO payments made in 2021/22 totalled £16.644m.

With the growth in inflation and increasing numbers of active PPOs, the value of PPOs have increased by £5,775m in the last five years. This represents a 53% increase in payment costs with a 27% increase in active cases from 111 in 2017/18. This is outlined in Fig7.

### Periodical Payments over last five years



**Fig7 Value & Number of PPOs over last five years**

## Legacy matters from Former Health Authorities

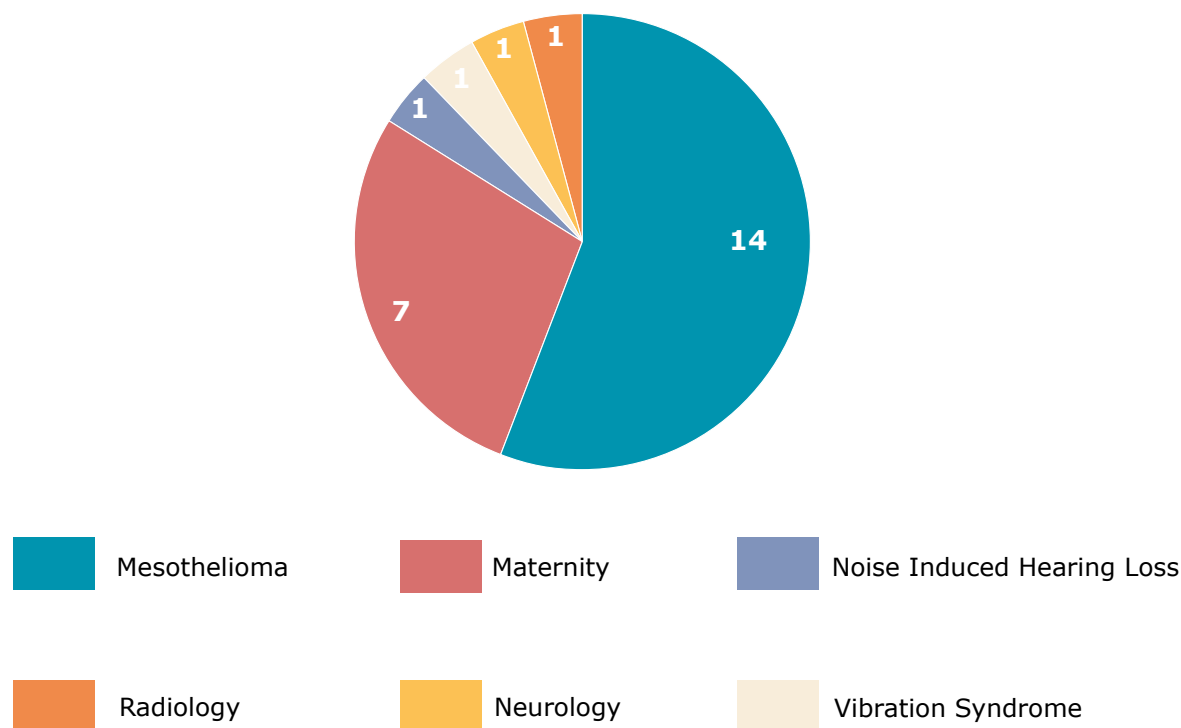
The Welsh Risk Pool manages claims brought against former Health Authorities in NHS Wales. These legacy organisations were replaced with a number of NHS Trusts across Wales between 1993 and 1996 and these new organisations did not inherit the liabilities of the predecessor organisations. Where a claim arises, these matters are managed by the Welsh Risk Pool and are conducted on behalf of Welsh Government, in the name of Powys Teaching Health Board through a Service Level Agreement.

As time progresses, the number of open matters continues to steadily decline. Whilst legal limitation may prevent a number of claims being brought successfully, some areas of claim cannot rely on limitation.

The most common claim now being brought against former Health Authorities relates to alleged exposure to asbestos between the 1960's and 1980's leading to a diagnosis of mesothelioma. These claims can be very challenging to investigate and personnel and potential evidence may simply not exist.

At the end of the 2021/22 period there were 25 open matters involving claims against former Health Authorities. Fig8 provides a breakdown of the number and types of these matters.

**Former Health Authority Matters 2021/22**



**Fig8 Current Former Health Authority Matters 2021/22**



# Financial Planning & Performance



The Welsh Risk Pool receives two funding streams:

- ▶ Departmental Expenditure Limit (DEL) is used to meet the in-year costs associated with settled claims & redress cases. The DEL is funded by a core allocation provided by Welsh Government that is sourced from the annual healthcare budget. This is augmented with additional expenditure provided by Welsh Government and a risk sharing agreement that involves contributions from each health body using a formula depending on the size, claims experience and risk management standards of an organisation.
- ▶ Annually Managed Expenditure (AME) to meet the cost of accounting for the long term liabilities of claims.

The NHS Shared Services Partnership Corporate Finance Team, led by Director of Finance & Corporate Services Andy Butler, provides oversight and guidance on the management of the Welsh Risk Pool Budget.

Analysis of the current budget and use of financial forecasting tools enables the Welsh Risk Pool to confidently plan for settlement of case in-year and prepare for the likely financial requirements in the ensuing years.

## 2021/22 Budget Position

The Welsh Government core allocation for the year in 2021/22 was £107m for clinical negligence and personal injury claims and a £1.259m allocation for redress cases. Additional funding was provided by Welsh Government to support case progression. The funding is further supported by the risk sharing agreement which makes up the remainder.

The DEL funding for 2021/22 is outlined in Table2.

WRP DEL funding 2021/22	£m
Welsh Government Core	107.000
NHS Wales Risk Sharing Agreement	16.495
Welsh Government Additional Funding	4.861
Welsh Government Redress	1.259
<b>Total Funding</b>	<b>129.615</b>

**Table2 WRP DEL funding 2021/22**

The redress outturn for 2021/22 was £1.679 compared to the Welsh Government core allocation for this sector of £1.259m. Overspending on redress cases is recognised to have a beneficial effect on reducing the number of claims which are brought. The £420k overspend on redress was charged to the overall DEL expenditure and funded via the additional funding streams in-year.

The value of £16.495m risk sharing agreement contribution had been notified to health bodies during the budget planning phase and remained unchanged during funding reviews of the year. This enables health bodies to plan more confidently for their available expenditure.

Expenditure on DEL is a useful indicator to identify the current position and can be tracked to previous years. The expenditure within the DEL budget for 2021/22 compared with 2020/21 can be further analysed as shown in Table3.

<b>WRP DEL Expenditure</b>	<b>2020/21 £m</b>	<b>2021/22 £m</b>
Claims reimbursed & WRP Managed Expenditure	72.255	99.922
Redress Reimbursements	1.479	1.909
Periodical Payments	14.873	16.644
Safety & Learning Programmes	0.22	0.288
Clinical Negligence Team Funding	0.205	0.55
Movement on Claims Creditor	34.806	10.302
<b>2021/22 expenditure</b>	<b>123.838</b>	<b>129.615</b>

**Table3 WRP DEL expenditure 2021/22**

The creditor movement is an indicator that shows payments that have been made by health bodies which are not yet subject to reimbursement by the Welsh Risk Pool. The creditor movement has increased since the beginning of the financial year. This increase is partly related to the timing of settlements, a number of which were heavily profiled to the latter part of 2021/22.

Health bodies have therefore not had an opportunity to complete the learning review process and submit returns in order to receive reimbursements for these cases. Cases where approval of the learning plans have been deferred by the Welsh Risk Pool also account for an increase in the creditor movement.



## Looking Forward – the Forecast

When considering the funds needed for future years, the Welsh Risk Pool and Legal & Risk Services categorise all claims and matters by allocating a rating depending on the likelihood of the case settling. The categories include, Remote, Possible, Probable and Certain and these are outlined in Table4.

Assessment of probability of settlement	
0% - 5%	Remote
6% - 49%	Possible
50% - 94%	Probable
95% - 100%	Certain

**Table4 Breakdown of probably of settlement**

For budget planning purposes, Probable and Certain cases are included in the forecast. The core DEL funding for the Welsh Risk Pool for 2022/23 is £109.435m which is a result of the pooling of the claims and redress allocations and an uplift of £1m for redress cases.

Planning and forecasting for the Welsh Risk Pool is included in the NHS Wales Shared Services Partnership Integrated Medium Term Plan (IMTP).

The current forecast for 2022/23 shows a resource requirement of £134.780m and the shortfall will be achieved through the application of the risk sharing agreement. Table5 provides a breakdown of the DEL forecast for the next three years.

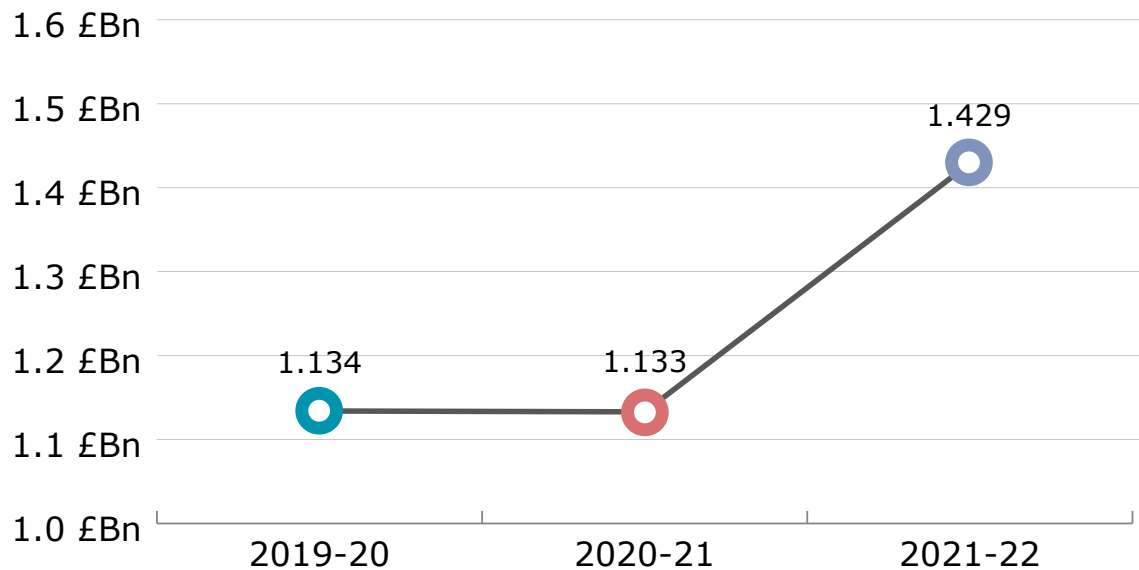
	2022/23	2023/24	2024/25
3 Year Forecast	£134.780M	£136.138M	£137.505M
Core WG Allocation	£109.435M	£109.435M	£109.435M
Risk Sharing Agreement 2022/23 to 2024/25 (Core Claims Growth)	£25.345M	£26.703M	£28.070M
<b>Total DEL Forecast</b>	<b>£134.780M</b>	<b>£136.138M</b>	<b>£137.505M</b>

**Table5 Breakdown of DEL forecast for next three years**

In 2021/22, the provisions have risen to £1.429bn which is an increase of £296.254m when compared to 2020/21. The provisions in 2020/21 experience a small decrease of £960k when compared to 2019/20 and this can be attributed to the impact of the first phase of the coronavirus pandemic. A profile of the provisions over the last three years is shown in Fig9 and a breakdown of the provisions is shown at Table6.

It is important to note that the significant increase in provision values does not relate to increased case numbers. The increase is primarily caused by the application of financial adjustments for inflation and the discounting of liabilities to net present value.

**Provisions for future claims over the last 3 years**



**Fig9 WRP Provisions for last three years**

Welsh Risk Pool Provisions	2019/20 £Bn	2020/21 £Bn	2021/22 £Bn
Probable & Certain Clinical Negligence Cases	0.676	0.646	0.781
Probable & Certain Personal Injury Cases	0.005	0.008	0.004
Probable & Certain Redress Cases	0.003	0.003	0.002
Defence Legal Fees and Others	0.009	0.009	0.009
Periodical Payment Orders	0.441	0.468	0.632
<b>Total Provisions</b>	<b>1.134</b>	<b>1.133</b>	<b>1.429</b>

**Table6 Breakdown of WRP provisions**



## Risk Sharing Agreement

To support the in-year resource requirements, the Welsh Risk Pool requires contributions from its member health bodies to supplement the core allocation provided by Welsh Government.

The Risk Sharing Agreement provides a formulaic approach to calculating the required contributions and considers the size, claims experience and effectiveness of learning for each organisation.

Each of the five measures are outlined in Table7.

	Measure	Detail	Weighting
A	<b>HSCS and Prescribing Allocation</b>	Current measure	<b>30%</b>
B	<b>Claims History</b>	Last 3 years – rolling basis	<b>20%</b>
C	<b>New Claims transferred from the Service to LARS:</b>  Number of New Cases < £25k	Last 12 months	<b>10%</b>
D	<b>Claims potentially affecting next years' spend:</b>  1. Cases with cash flows < 1 yr 2. PPO Allocation Utilisation	From CN database: 15% Actual Costs: 10%	<b>25%</b>
E	<b>Management of Concerns and Learning from Events</b>  1. Management of Concerns 2. Learning from Events	Annual WRP Inspections:  7.5% 7.5%	<b>15%</b>

**Table7 Risk Sharing Agreement Measures**

The first measure relates to the Health & Social Care Services Allocation (HSCS) and Prescribing Allocation allocated to an organisation by Welsh Government. This is major indicator of the size and complexity of an organisation.

The claims history considers the last three years and is calculated from the records of cases submitted for reimbursement and includes claims settled.

Measure C, cases under £25k, considers matters which could have been resolved through the redress case management system. The data for this is drawn from the Legal & Risk matter database.

The risk sharing calculation then considers claims that are likely to affect the next year's expenditure, considering each organisations profile of claims with cash flows, where payments are expected, within the next twelve months. This measure also considers the utilisation of PPOs which is taken from the forecast projections.

The final, and arguably most influential, measure is the Management of Concerns and Learning from Events. Each year the Welsh Risk Pool undertakes inspections of the processes and arrangements in each health body. The Welsh Risk Pool considers whether health bodies have complied with the WRP Reimbursement Procedures, the Once for Wales Concerns Management System and the guidance for the Putting Things Right legislation. The inspection programme was paused due to the pandemic and will recommence in the autumn of 2022/23.

Each organisation receives an individual contribution value which is a percentage of the total contributions required.

### The Risk Sharing Agreement

- ▶ Weights the various measure in order to provide a balanced and equitable system
- ▶ Is transparent and auditable in its application
- ▶ Provides reward for organisations who are managing the Putting Things Right requirements effectively
- ▶ Is updated every year to reflect recent activity and progress
- ▶ Does not rely heavily on past events – providing emphasis on activity and behaviours of the last year.



# General Medical Practice Indemnity



## Scheme for GMPI

Legal & Risk Services are appointed by Welsh Government to operate the Scheme for General Medical Practice Indemnity ('GMPI'), launched on 1 April 2019.

GMPI provides clinical negligence indemnity for providers of GP services in Wales for compensation arising from the care, diagnosis and treatment of a patient following incidents which happen on or after 1 April 2019.

The GMPI team aim 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. Equally, the team recognises the importance of robustly defending claims where appropriate and of protecting GPs, their staff and their reputations.

Full details of the Scheme and Guidance and FAQs can be found on [Legal & Risk's website](#).

## The GMPI Team

Legal & Risk has a dedicated Primary Care Clinical Negligence Team (the GMPI Team) that operates the Scheme for GMPI. The lawyers specialise in managing clinical negligence claims against GPs and GP Practice staff across Wales and work closely with NWSSP's in-house GP advisors.

Since the GMPI team formed in April 2019, the team has been recognised for its work and 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.
- ▶ Wales Legal Awards 2020, Finalist in the 'In-House Team of the Year' category.

## Operation of GMPI

The GMPI team currently:

- ▶ operates 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. There were over 4000 communications between 1 April 2019 to 31 March 2022.
- ▶ helps GP Practices to respond to patients' clinical concerns by providing guidance and support. The team seeks input from NWSSP's in-house GP medical advisors and feeds back to GP Practices any suggested learning. The team assisted GP Practices with approx. 360 patient concerns in the first 3 years of the Scheme (1 April 2019 – 31 March 2022). The guidance given by the team reflects NHS Wales Putting Things Right (PTR) concerns procedure.
- ▶ provides All-Wales training and bespoke virtual training to Health Boards and GPs/Practices/Trainee GPs across Wales. including 19 workshops and information sessions on the new scheme which were provided face to face to Health Boards and GP Practices across Wales prior to the Covid-19 pandemic. Other training topics have included tips for GP referrals during COVID-19, effective handling of patient concerns, the clinical negligence Legal Test, Case Studies, Confidentiality and Learning from Events in General Medical Practice. Training is mostly delivered virtually now.
- ▶ contributes articles to the Legal & Risk Newsletter sent to Health Boards and GP Practices.
- ▶ meets regularly with other NWSSP divisions (including for example NWSSP Primary Care Services, NWSSP Employment Services and the 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.

Through the support highlighted above, early input by the GMPI Team with patient concerns assists practices with resolving complaints at an early stage and help avoid clinical negligence claims where possible. 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 case. At 31st March 2022, 3 years after the introduction of the scheme, there have been only 2 patient concern matters, with which the GMPI team had assisted, that have developed into formal clinical negligence claims.

The GMPI claims are increasing, and good results have been achieved to date with GP Practices reporting back that they were "Very Satisfied" with the overall management of the case and provision of advice.

In 2021-22, the GMPI Team led the successful defence of a claim at Trial.





### **GMPI claim successfully defended at trial**

The claim was brought against a GP Practice by a Litigant in Person who served court proceedings without notice. The amount of damages sought by the claimant was low, but it was important to defend the claim, to support the 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.

## **Learning from Events**

The GMPI Team has worked with Welsh Risk Pool and NWSSP's in-house GP advisors 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, which helps to promote closer links and collaboration between primary care and secondary care and helps to improve patient safety.

The GMPI Team co-ordinates the robust learning from events process in General Medical Practice. It is hoped that this additional support service around learning from events will help to reduce incidents and prevent claims arising against Practices and Health Boards.

## **Existing Liabilities Scheme**

In addition, Legal & Risk Services has been appointed by Welsh Government to operate the Existing Liabilities Scheme ('ELS') for eligible clinical negligence claims made against GPs and others working in a general practice setting as a result of an act or omission occurring prior to 1 April 2019.

ELS is only available where the medical defence organisation (which previously would have provided the indemnity) has completed an agreement to transfer these liabilities into the Scheme. To date, only two defence organisations have completed such an agreement. All eligible claims held by these defence organisations have been transferred into the Scheme and are being handled within the dedicated GMPI team.

# Supporting Safety, Learning & Improvement



## Safety & Learning Networks

The Welsh Risk Pool supports health bodies across NHS Wales to learn together and share experience and good practice through the Safety & Learning networks. These provide a forum for practitioners in patient safety, concerns management and service user feedback to improve practice across NHS Wales.

Safety & Learning Networks provide a forum for discussion and to achieve consensus and consistency across NHS Wales. The work of the networks is commissioned by the Welsh Risk Pool Committee. The work of the networks also report to the Listening & Learning from Feedback Group which is an all-Wales group coordinated by Welsh Government.

The principal aim of the networks is to provide an opportunity for NHS Wales staff to meet, share & learn. A core objective of the networks includes achieving consistency across NHS Wales. This provides opportunity for other national groups to request that a network considers a particular topic or area of concern.

There are a number of Safety & Learning Networks:

- ▶ Claims Management
- ▶ Complaints Handling
- ▶ Inquest Case Management
- ▶ NHS Wales Ombudsman Liaison Officers
- ▶ Redress Case Management
- ▶ Service User Feedback

In addition to the Safety & Learning Networks, the Welsh Risk Pool also facilitates the Head of Patient Experience Network, which is a membership group for senior managers within the Putting Things Right sector to meet, share and learn.

Facilitated by senior members of the Welsh Risk Pool team, networks are chaired by practitioners within the sector, operating on the principle of 'for the service, by the service'.

The Networks follow some core principles:

- ▶ **Topic Focus** to ensure all topics are given space to be discussed.
- ▶ **Practitioner Focus** attended and chaired by practitioners within the topic area.
- ▶ **Outcome Focus** enable practitioners in the field to consider service design and improvement through practical discussions on concepts for change and reaching a consensus of direction.
- ▶ **Space for consensus development** providing an environment for considered and worthwhile discussion; there are also opportunities for partner organisations, regulatory bodies and other interested parties to be invited to meetings in order that options can be explored.

During the pandemic, meetings transitioned to a virtual platform and are now routinely held using Microsoft Teams. This maximises the attendance and participation of members. Occasional meetings will be held in-person when this is considered to be necessary and beneficial to the items being discussed, but the majority of network meetings will remain on a virtual platform.

Network meetings are popular with members and attendance levels are excellent. The Welsh Risk Pool leadership team regularly receive compliments and thanks for providing the network process.

“

During the pandemic, having the networks available via Teams was an essential way for me to keep in touch with colleagues who were experiencing the same challenges as I was identifying. The meetings are really valuable.

”

*Claims Manager,  
NHS Wales*

“

The network has made a real difference in reaching a common way of working across NHS Wales. I have been able to shape our policy following discussion at the network.

”

*Redress Officer,  
NHS Wales*

During 2021/22, a total of thirty network meetings were held. During 2022, a meeting of all of the Network Chairs was held, led by the Chair of the Listening & Learning from Feedback Group.

This reflected on how the networks have matured:

- ▶ People are clear on the objectives of the networks and have identified the benefits of attending meetings
- ▶ The allocation of a dedicated facilitator has been incredibly effective in strengthening the maturing network system and promoting cross-working.
- ▶ The use of Share Point for document and information distribution has been a success.
- ▶ Task & Finish groups for specific topics have been extremely successful, and the networks are at a level of maturity where this can continue to happen.
- ▶ Positive feedback has been received from NHS Wales colleagues who attend other networks.

## Learning from Events

The Welsh Risk Pool plays a key role in assuring learning action plans which are implemented from events arising from claims and redress cases. Additionally, sharing the learning across NHS Wales is a key aim of the Learning from Events programme.

A clinically led and multi-professional Learning and Advisory Panel (LAP) has been established as a recognised subcommittee of the Welsh Risk Pool. Chaired by established leaders from the Putting Things Right sector, the panel meets monthly to scrutinise the learning which has been implemented by organisations from cases where a decision to settle has been made. Each panel reviews around eighty cases.

The panel's recommendations are presented to the Welsh Risk Pool Committee. Where improvement in learning or action plans are needed, deferral of reimbursement of the costs of a claim is directed.

Where improvements in learning or action plans are not considered to be significant, decisions on recommending approval of learning and reimbursement of the costs in a case are delegated to a focussed panel – known as the amber review panel. This examines the feedback provided to a health body and confirms assurance that necessary steps have been taken.

For cases where the expenditure exceeds £1m, Medical Officers from Welsh Government attend the panel meetings and support the scrutiny of learning.

A quarterly newsletter, Doctrina, which targets themes, trends and identified cases of interest, is shared widely and well received by clinical leaders. The panel has identified that commonly occurring themes show that around a third of cases are in relation to missed or delayed diagnosis and this has been shared via the newsletter.

During 2021, the Welsh Risk Pool has worked closely with the NHS Wales Delivery Unit to migrate the Learning from Events for Nationally Reportable Incidents onto a single LFER form. This captures the essential information required by both organisations and ensures that local clinical teams have only one design and layout of the form to be familiar with.

During the 2021/22 period, the panel met monthly, with additional panels held if the caseload required it. A total of eighteen panels were held and over 1700 cases were scrutinised. The panel achieved effective multi-disciplinary attendance from various professions and specialities across NHS Wales.

“

The panel was a fascinating insight into the issues which led to claims. The meeting offered me an opportunity to review information from other organisations which I have been able to adopt in my own practice. I recommend that every junior doctor should attend a panel at least once during their training.

**Junior Doctor,  
NHS Wales**

”



“

The panel is not just looking at paperwork, it carefully considers the circumstances which have led to a claim or redress case being brought against a health body and what actions have been taken to reduce the risk of a repeat incident. The input from clinical staff is vital to ensure that the panel is familiar with the operational context in which services are delivered.

*Panel Chair*

”

To enable organisations to focus on the response to the pandemic, the established deadlines for submission of Learning from Events Reports were relaxed in March 2020. Following careful analysis by the Welsh Risk Pool Committee, these have been reinstated. The deadline of 60 working days from a decision to settle a case to the submission of learning information is a key driver in ensuring prompt action is implemented to reduce the chances of a repeat event.





## Clinical Reviews

The Welsh Risk Pool Committee commissions clinical reviews of topics or sectors when themes and trends are identified in cases. The reviews generally examine systems and processes which underpin the procedure or process being considered.

During 2021/22, the number of clinical reviews was reduced from the usual level due to the challenges arising from the pandemic. Three reviews were undertaken.

## Venous Thromboembolism (VTE)

The review was commissioned in 2021, when the Learning Advisory Panel identified increased numbers of redress and clinical negligence cases relating to VTE.

Patients who are hospitalised and acutely unwell are widely recognised to be at a higher risk of developing a VTE than people in the general population. Given the increased numbers of hospital admissions of acutely unwell patients with Covid-19, there was concern that the number of cases presenting to the LAP would increase significantly. In the most recently available data, the Office of National Statistics shows that 369 people died in Wales, in 2020, from VTE related illness.

The review consisted of the analysis of patient records for patients admitted to hospital under medical specialty or selected surgical specialties. Criteria for the review were developed following discussion with members of the All-Wales Hospital Acquired Thrombosis (HAT) Committee. These were formulated to assess application of the current All-Wales Thromboprophylaxis Policy standards and to identify whether the patient had received a documented VTE risk assessment on admission, whether the VTE section of the Adult In-Patient Medication Administration Record had been correctly completed and whether thromboprophylaxis had been administered as prescribed.

The review found that compliance with correct completion of the Record for patients where thromboprophylaxis had been prescribed was excellent across all NHS Wales health bodies. However, in cases where thromboprophylaxis had not been prescribed, compliance with correct completion of the Record was poor.

Draft reports with recommendations and a proposed all-Wales WRP Standard for VTE have been circulated to health bodies. Development of a bespoke e-learning programme for VTE is almost complete and all health bodies have committed to implementing the all-Wales Thromboprophylaxis Policy. The Welsh Risk Pool Safety & Learning Team will actively support the HAT committee going forward.

The review will complete its work during 2022/23 and a re-inspection will be commissioned in the future by the Welsh Risk Pool Committee to assess progress.

## **Radiology (unexpected findings)**

This review was a re-examination of the findings of a review we undertook in 2018. The review is triggered due to the sustained level of cases where a key finding is the failure of an organisation to act on findings of a radiological examination.

Analysis of the claims and redress cases related to this issue has identified that a radiologist or reporting radiographer may identify, and record, unexpected abnormal findings in their report but that the necessary clinical steps are not taken in response. This can lead to delays or missed opportunities for diagnosis and intervention and can result in significant harm for some patients. The review found this to occur more frequently in emergency department settings where staff who request radiological reports may not be on duty when the report is received, with the patient often already discharged.

Following the review in 2018, health bodies established working practices to address our findings and to try to reduce the potential for a case being missed.

Our analysis during 2021 identified that the issue continues to arise in claims and the established working practices in response to our recommendations are commonly manual tasks which are recognised to be at risk of error.

To help drive progress towards a digital solution, the NWSSP Medical Director has coordinated a task & finish group of radiology, emergency department and digital colleagues to explore opportunities within existing software that can be exploited to help reduce this risk.

Progress with this review will be reconsidered by the Welsh Risk Pool Committee in 2023/24.

## **Intrapartum Fetal Surveillance**

Claim information highlights that allegations associated with failures in intrapartum fetal surveillance continue to be at an unacceptable level. One third of the 131 maternity claims, which were settled in the five year period between 2016 and 2020, featured intrapartum fetal surveillance as a contributory factor. Poor documentation, failure to escalate concerns and delay in acting were the significant factors involved in these cases. This amounted to over £86m in clinical negligence reimbursement.

The WRP commissioned the Safety & Learning Team to undertake a review of the application of the Intrapartum Fetal Surveillance Standards (2018) across NHS Wales. A preliminary review was undertaken in 2019. A national collaboration meeting was held in early 2019. The completion of the full review, which involves fieldwork throughout NHS Wales, has been delayed by the impact of the pandemic. The full review has now been completed and the findings are presented in a national report.

The review included fieldwork reviewing clinical notes of births between defined dates. The review also involved a survey of clinicians throughout NHS Wales in relation to documentation related to intrapartum fetal monitoring.

The review has identified areas of good practice and a number of areas where improvement can be implemented to reduce the risk of harm for women and babies. The main finding for improvement is that the quality and consistency of documentation related to fetal surveillance is limited and the risk of litigation remains unacceptable - the need is identified for a standardised approach which captures the documentation requirements in the standards.

A total of nine recommendations were made for the maternity services sector to collaborate on improvement. These will form a work plan for the WRP Safety & Learning Team during 2022/23.





## Library of Consent Information Leaflets

In July 2020, an alert was issued to ensure a more consistent national approach to procedure-specific patient information leaflets. It requires organisations to ensure that either EIDO procedure-specific patient information leaflets, where available, or procedure-specific patient information leaflets produced by recognised professional bodies or other national bodies, are provided to patients.

The library of leaflets has progressed through an all-Wales competitive tender, which was awarded to EIDO Healthcare. Evaluation of the tender responses was supported by a small cohort of clinicians and leaders from health bodies.

The programme team have continued to work with EIDO Healthcare to promote the availability of the Download Library across all health bodies. The team have also coordinated the facility for NHS Wales clinicians to provide feedback on current leaflets or request the development of new leaflets that are not currently available. This has led to the development and publication of a range of new leaflets.

## Consent to Examination & Treatment

Litigation associated with issues related to the consent process continue to represent a regular feature in claims experienced in NHS Wales. To support organisations in providing information to patients, the Welsh Risk Pool has funded the provision of consent information for over ten years.

An improvement programme has been established to coordinate work in this area. During 2021/22, the programme has undertaken a series of work streams.

Provision of consent information through the medium of Welsh is an important aspect of the programme. A structured piece of work has been coordinated by the NWSSP Welsh Language Services team to ensure that the standard of Welsh translation for every EIDO leaflet is reviewed and adjustments made where necessary to ensure that the translation meets the highest possible standards. Leaflets are presented in a bilingual format with Welsh and English versions side by side. A quality assurance function has been established, led by the NWSSP Welsh Language Services team, to monitor the translation of updated and new leaflets.



There has also been focussed engagement with Public Health Wales and the Welsh Blood Service, who develop national procedure-specific leaflets, to ensure these are available as a central resource through links on the Download library.

A further development in the materials available include access to Easy Read leaflets, in a bilingual format. These are leaflets aimed at providing key consent information to service users who may have additional needs or a learning difficulty.

### Learning & Development in Consent

The programme team coordinated a national Webinar for clinicians in conjunction with EIDO on the question of

#### ***"How Can Technology Support the Consent Process During the Covid-19 Pandemic?"***

Over 80 attendees joined the webinar; it was also recorded and made available as a resource via the NWSSP YouTube channel for those unable to attend.

Following a competitive tender exercise, the development of a bespoke e-learning package for NHS Wales healthcare professionals involved in the consent process has been implemented. This has included on-line video segments of key NHS Wales and Welsh Government leaders.

The SoundDoctor™ package is available via ESR and Learning@Wales for all NHS Wales staff.

### Resources & Information

Webpages have been developed on both the internet and NWSSP intranet to provide an information resource on Consent to Examination & Treatment for both NHS employees and the public. This information includes links to the All Wales Model Policy and consent forms, e-learning and other useful documents or guidance (including legal and ethical resources during the Covid-19 pandemic).

### All Wales Consent Group

The improvement programme is underpinned by the All Wales Consent to Examination and Treatment Group, which has representation from all health bodies. This national group has been established to:

- ▶ Coordinate and gain consensus amongst clinicians / Health Boards / Trusts about the Consent to Examination, Treatment and Screening process in Wales.
- ▶ Act as an advisory Group to the WRP Committee.
- ▶ Assist Welsh Health Bodies to provide assurance to their Board's and the WRP that relevant law and national guidance concerning consent is applied correctly within their Health Board / Trust.





### **PROMPT Wales & Community PROMPT Wales**

PROMPT (PRactical Obstetric Multi-Professional Training) is an evidence-based training programme for all healthcare professions involved in the delivery of maternity services. It incorporates emergency simulation sessions and human factors training.

PROMPT Wales is a maternity safety programme funded and coordinated by the Welsh Risk Pool. It adapts the principles and resources used in PROMPT to meet the needs of services in NHS Wales and has been running in NHS Wales since January 2019. Introduced to reduce variation and standardise the quality of multi-professional obstetric emergency training across Wales, the overarching aim of PROMPT Wales is to improve outcomes for mothers and babies and reduce litigation costs associated with avoidable harm. Attendance on PROMPT Wales training is mandated by Welsh Government for all midwives, obstetric doctors and obstetric anaesthetists and is recognised in 'Maternity Care in Wales - A Five Year Vision for the Future (2019-2024).'

Each maternity unit in Wales runs courses regularly throughout the year in order to achieve the 95% attendance compliance set out in specially established PROMPT Wales Standards.

### **Maternity Safety & Learning Programmes**

Litigation associated with avoidable harm in maternity services continues to represent a significant proportion of claims expenditure across the NHS. Within Wales, approximately a third of Welsh Risk Pool expenditure is attributed to maternity services. It is clear that in addition to the significant litigation expenditure, the catastrophic harm caused to women and babies due to issues in care must be reduced.

The Welsh Risk Pool has established a Maternity Safety & Learning Board which drives improvement programmes aimed at reducing harm and litigation in maternity services.

The Welsh Risk Pool has established a multi-professional national team to lead the implementation and sustained delivery of the programme. The national team have developed strong, collaborative relationships with maternity services and provide ongoing support by attending local training and providing quality assurance to health board leadership teams.

PROMPT Wales was briefly paused at the beginning of the pandemic but has continued in a hybrid format, with some lectures temporarily presented on a virtual platform. The fundamental principles of PROMPT training requires staff to train together in the clinical environment and a recovery plan to return fully to a standard delivery format is established.

For successful delivery of PROMPT Wales training, there needs to be effective local faculty within each health board. The national team organise Faculty Development training courses to enable health boards to maintain an optimum number of local multi-professional faculty to sustain the delivery of effective courses.

Building on the success of the PROMPT Wales programme, the Welsh Risk Pool has identified a need for a package to support community maternity services. Community PROMPT Wales has been developed specifically in Wales to offer a bespoke training experience for midwife-led teams. Having been developed and peer-reviewed to reduce variation and standardise the delivery and quality of community based obstetric emergency training, the programme is now being adapted for use across the UK and internationally.

Community midwives make up a third of the midwifery workforce in Wales, and along with an expected increase in community births in line with Welsh Government strategy – 'Maternity Care in Wales - A Five Year Vision for the Future (2019-2024),' this programme supports the development of community teams who are skilled to recognise and manage emergency situations efficiently and effectively.

Following a successful pilot, Community PROMPT Wales is now embedded into maternity services and attendance is mandated for those staff who work in midwife-led settings.

The programme has proven very popular - 99% of the 115 staff who completed an online survey found the training beneficial to their practice. Evaluation of survey results identify a 56% increase in the confidence of community midwives in managing an emergency following training.



### **Supporting PROMPT Wales training in higher education**

Bangor University, Cardiff University, Swansea University and the University of South Wales have incorporated the principles of PROMPT Wales into the undergraduate midwifery programme, with PROMPT Wales trained lecturers in each institution.



Student midwives are also encouraged to attend PROMPT Wales training in health boards during their placements. This helps students become more familiar with the clinical environment and dynamics of dealing with an emergency in the clinical setting.

With university representation on the Maternity Safety & Learning Board, the national team and HEIW are collaborating with the higher education sector to standardise access to and experience of PROMPT Wales for student midwives in Wales.



## **Improving Outcomes**

Research has shown that the PROMPT programme was associated with improvements in staff attitudes and organisational culture when rolled out in Victoria, Australia. To measure whether this could be replicated in NHS Wales, a Safety Attitude Questionnaire was distributed pre and post implementation of PROMPT Wales. Nationally, the mean scores from the sample demonstrates improvement in all domains: Teamwork, Safety Climate, Perception of Management, Job Satisfaction, Working Conditions and Stress Recognition. This recognises the contribution that PROMPT Wales training makes to cultural change, in addition to clinical skill, which collectively have been shown to improve the management of obstetric emergencies and safer outcomes.

The national team are currently capturing and validating data streams to enable the analysis of the PROMPT Wales principles on clinical outcomes. Preliminary data indicates that there is improvement since the commencement of PROMPT Wales in 5 minute APGAR score  $<7$ . The full suite of clinical outcome measures include:

- ▶ 5-minute APGAR  $<7$  (Term births)
- ▶ 5-minute APGAR  $<7$  (Preterm births)
- ▶ Hypoxic Ischaemic Encephalopathy Grade 2 + 3
- ▶ Shoulder dystocia (as a denominator for BPI)
- ▶ Brachial Plexus Injury at birth
- ▶ Brachial Plexus Injury at 12 months
- ▶ 1500ml PPH (Primary)
- ▶ 2500ml PPH (Primary)
- ▶ Maternity admissions to level 3 care

The successful implementation of PROMPT Wales is attributed to the collaborative approach between the Welsh Risk Pool, Wales Maternity & Neonatal Network, the PROMPT Maternity Foundation and all seven NHS Wales health boards.

The success of this national programme has been recognised by Professor Tim Draycott, Joint PROMPT Maternity Foundation Lead, Consultant Obstetrician at North Bristol Trust and Vice President of the Royal College of Obstetricians and Gynaecologists.





“

PROMPT Wales has provided a consistent approach to multi-professional training for all units and services across Wales with national leadership by the Welsh Risk Pool. Furthermore, the implementation of PROMPT Wales at unit level has been the most coherent and robust of any maternity training programme in the literature, even with the challenges of the geographically widespread sites and the rapid timescale. Finally, I consider that the success of the programme has largely been due to an ambitious and joined up approach that is a model for scaling future programmes internationally.

*Prof Tim Draycott*

”



## Intrapartum Fetal Surveillance

Documentation is a recurring theme in WRP claims related to issues with fetal monitoring. This includes issues relating to the standard of both cardiotocograph (CTG) and intermittent auscultation (IA) documentation, including decisions on when to clinically intervene.

Following the completion of the clinical review into Intrapartum Fetal Surveillance, it has been identified that there is divergence of practice in relation to the form and content of CTG and IA documentation. Training was also found to have considerable variation.

The team led an all-Wales survey, which was completed by 264 maternity staff to generate staff attitudes around the use of stickers which are used to categorise CTGs.

The team have developed an all-Wales virtual workshop training package on fetal monitoring during labour. This unique training focuses around a 'labour ward board,' whereby the multi-professional team will need to make collaborative decisions and prioritise care, whilst remaining situationally aware of the labour ward as a whole. Human factors are incorporated in response to national reports which demonstrate that a loss of situational awareness contributes to over 70% of avoidable neonatal brain injury or death.

Members of the national team are represented on the Wales Maternity & Neonatal Network Guideline group, reviewing the all-Wales Intrapartum fetal surveillance Standards. The group are working on the development of an all-Wales CTG documentation tool, and are also discussing the best approach to training on intrapartum fetal surveillance. As part of these discussions, the virtual workshop training package will be considered as one option.



## Once for Wales Concerns Management System

The Once for Wales Concerns Management System Programme was developed from the recommendations made by Keith Evans in the report commissioned by Welsh Government – “The Gift of Complaints”. The programme aims at bringing consistency to the use of the electronic tools used by all NHS Wales health bodies when handling concerns to investigate and improve quality & safety.

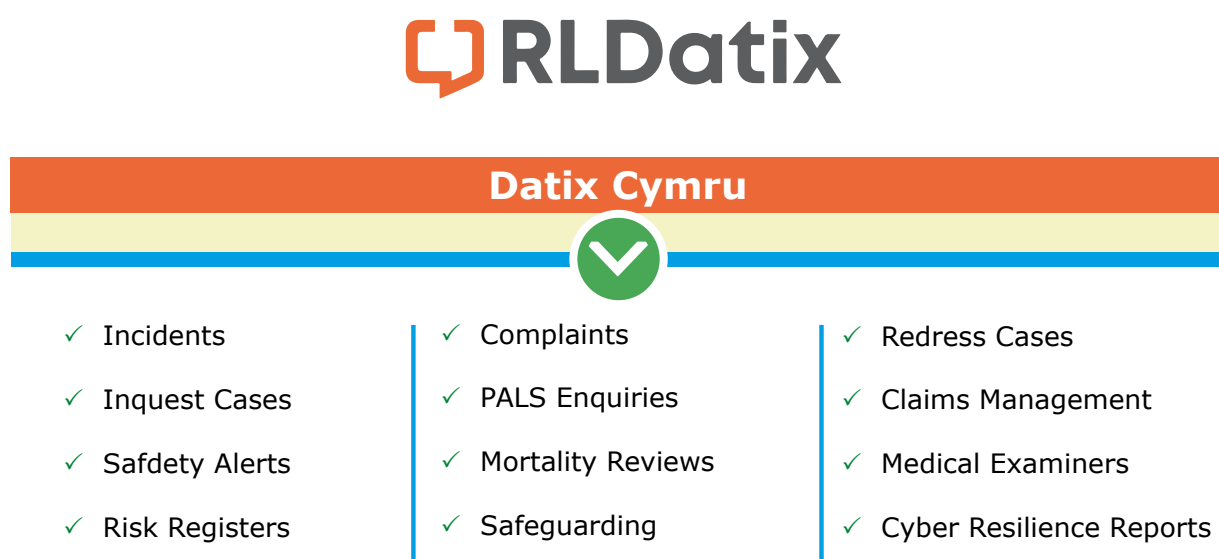


The programme moves organisations away from using independently configured systems to a series of products with a common Once for Wales configuration and design. Following a successful procurement exercise, two products currently form the Once for Wales system – Datix Cymru and Civica Experience Wales. These are bespoke products, adapted to meet the needs of NHS Wales.

The functionality and configuration of the various modules within the software are designed by a series of workstreams which consist of subject matter experts from NHS Wales organisations. This enables the system to be designed by the service, for the service.

### Datix Cymru

The Datix Cymru product is a cloud-based software tool with multiple modules that have been adapted, configured and implemented specifically for NHS Wales. Fig10 outlines the core functionality of the product.



**Fig10 Core Functionality of Datix Cymru**

The Datix Cymru programme is divided into three phases of implementation. Phase 1 introduces the systems and coding processes on a Once for Wales basis and all health bodies are now using the platform. Phase 1 modules include Incidents, Complaints, Claims & Redress, PALS, Inquests, Mortality Reviews. Phase 2 during 2022/23 aims to implement the risk registers and safeguarding functionality.

The phase 1 implementation also included some specific functionality for specialist services in NHS Wales. The Wales Medical Examiner Service utilises a dedicated Datix Cymru module. The Cyber Resilience Unit, which oversees the Security of Networks and Information Systems Regulations, also uses a bespoke configuration of the Datix Cymru product to capture and analyse data in relation to cyber security matters.

Using a cloud-based platform, the Datix Cymru system enables primary care contractors and key stakeholders to use the system – facilitating an integrated approach.

With the decommissioning of the National Reporting & Learning Service, Welsh Government has requested that interim solutions are put into place to enable primary care contractors to report patient safety matters, and this has been particularly embraced by the pharmacy services in NHS Wales. This will be further expanded in 2022/23.

Capture, Categorisation & Coding of information is a vital element of the Datix Cymru system. By aligning all of the coding used across all organisations, NHS Wales has generated a dataset that enables structured analysis of the causal factors of things that have gone wrong and when things go well – sharing best practice throughout all health bodies.

The first national coding dataset was introduced in 2020 and this is regularly reviewed by a dedicated workstream of subject matter experts. All organisations are now utilising the national coding dataset for Incidents and these will be incorporated into the other modules during 2022/23.

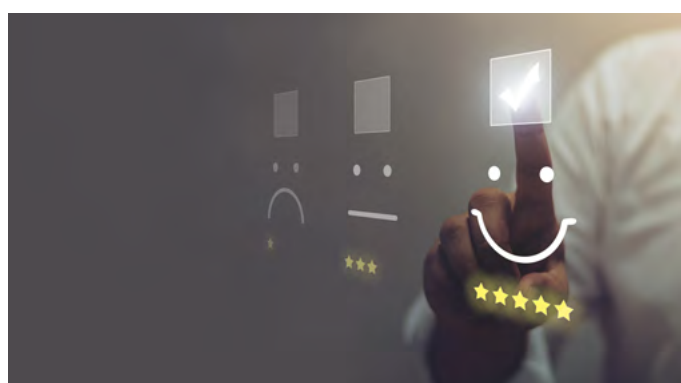
The programme has established a dedicated workstream to consider Intelligent Monitoring, Dashboards and Data Analysis – identifying the most effective reporting tools that can provide strategic, organisational and operational information to drive safety and quality improvements. With all organisations utilising a bespoke NHS Wales coding dataset, this enables reports that have not been possible to produce before to be obtained from the system.

The power of the Datix Cymru system enables the creation and configuration of specific Investigation Tools, bringing consistency to the methodology used to investigate where things have gone wrong. This work has commenced with a specialist workstream introducing the Yorkshire Framework of causal factors. The development of specific investigations tools will be expanded in 2022/23.

The Health and Social Care (Quality and Engagement) (Wales) Act 2020 introduces a Duty of Candour within Wales. During 2021/22, the OfWCMS Central Team have worked with key stakeholders and Welsh Government to ensure that the Datix Cymru system is fully ready to support this important new duty. The workflows and design of the Duty of Candour reports have been developed with the support of a workstream of subject matter experts. The system enables primary care contractors and other providers to report cases where the duty of candour has been triggered to their commissioning health bodies.

During 2021/22, over 30,000 Incidents were reported using the Datix Cymru system as organisations migrated to the new platform. Approximately 20,000 Complaint and Early resolution Investigations were conducted using the system. Early results indicate that the all-Wales workflow and consistency coding provides higher quality data.

As the system becomes embedded further, it is estimated that over 180,000 incidents will be reported and managed through the system each year.



### Service User Feedback

As the Keith Evans report reminds NHS Wales, obtaining feedback from users of our services is a vital element to be able to identify what is going well and where there are areas for improvement.

The Once for Wales Concerns Management System has established the Civica Experience system in each health body and some national groups. This common platform enables structured surveys to be designed and distributed to service users, gathering real-time valuable feedback for service leads and clinical leaders. Through integration with local ICT systems, survey information can be directed and focussed to the right recipients.

The Civica Experience Wales product has a wide range of features, based on a dedicated survey design & analysis tool. Multiple methods of communication with service users are available, including dedicated apps which are installed on portable devices, text messaging to service users' known telephone numbers and interactive voice response messaging. The functionality of the multi-lingual product is outlined in Fig11.

# CIVICA

## CIVICA Experience Wales



- |                    |                                     |
|--------------------|-------------------------------------|
| ✓ Survey Design    | ✓ Survey App                        |
| ✓ Results Analysis | ✓ Local Feedback Capture            |
| ✓ SMS Messaging    | ✓ Children and Young People Surveys |
| ✓ IVR Messaging    | ✓ Patient Stories                   |

**Fig11 Available Functionality of Civica Experience Wales**





## Once for Wales Governance

The Welsh Risk Pool has worked with all health bodies and national groups to ensure that the information governance arrangements and cyber security requirements relating to the Datix Cymru and Civica Experience Wales are firmly in place. During 2021/22 national Data Protection Impact Assessments have been approved for all elements of the system and these remain under regular review.

Led by a Central Team of system experts which is hosted by the Welsh Risk Pool, each health body has trained Local System Leads to support organisations delivering training to staff, setting up the access to data for staff and helping to get the most from the system.

The Once for Wales Concerns Management System is an excellent example of NHS Wales organisations working collaboratively. The governance structure, established to maintain consistency in system setup and configuration, includes a Programme Board which is chaired by a Chief Executive of one of the health bodies, a Steering Group which formulates and guides the development and implementation plan and a Content & Governance Group, which provides oversight of the system developments requested by organisations.



# Assurance – Putting Things Right



The reviews were not carried out during 2020 or 2021 to enable organisations to focus on the response to the pandemic. Now that the protective measures associated with the pandemic have been relaxed, it is possible to recommence the WRP Review process.

The Welsh Risk Pool conducts assurance reviews on behalf of Welsh Government in relation to the application by health bodies of the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 – known as the Putting Things Right (PTR) Regulations.

These reviews are designed to help health bodies comply with the requirements set out in the PTR regulations, and to develop action plans to address any areas for development. The outcomes of the reviews are also included as an indicator that determines each health body's contribution to the risk sharing agreement.

Prior to the pandemic, the reviews were paused to enable a review of the methodology and scoring & rating process – to ensure it provides the most useful information to leadership teams as possible. Work has been undertaken with the Head of Patient Experience Network to identify the key areas of focus for the reviews.

The reviews involve careful analysis of complaint investigation records, policy and procedure documentation and data held in systems. Using a peer-review approach to share best practice across NHS Wales, staff from health bodies join specialist reviewers from the Welsh Risk Pool and Legal & Risk Services in conducting the assessment.

## WRP Assessments 2022/23

It is intended to carry out a review with each health body in NHS Wales during 2022/23. To enable organisations to share and coordinate learning and improvement, the data selected as part of the review will relate to concerns handled during January to March 2022. It is intended that the reviews for 2022/23 will be carried out during Q3 or Q4 of the financial year.

The review will consider:

- ▶ The health body's policy & procedures for handling concerns.
- ▶ The timeliness of complaint investigations.
- ▶ The quality of complaint investigations and responses.
- ▶ Arrangements for handling concerns about primary care providers.
- ▶ The application of the all-Wales workflow within Datix Cymru for concerns.
- ▶ Appropriateness use of internal and external expert opinion.
- ▶ Suitability of decisions whether there is a qualifying liability in a matter.
- ▶ Compliance with the duty to be open, which will become the Duty of Candour in 2023.
- ▶ Arrangements for sharing lessons learned from a concern across the organisation.



# Supporting the response and recovery from Coronavirus



The pandemic has placed unprecedented pressures onto health and care services in Wales and required organisations to work in new and innovative ways.

To facilitate alternative models of NHS operational delivery needed during the pandemic, the Welsh Risk Pool and Legal & Risk Services have been instrumental in supporting Welsh Government and health bodies by producing guidance and frameworks to support decisions on indemnity.

During the pandemic we established a hub of experienced lawyers to provide advice on legal issues arising from the Coronavirus pandemic. We ensured that claimants were not negatively impacted where possible by offering interim payments of damages and agreeing extensions of time.

This work continues with focus moving to analysis and communication across Wales of the impact of the context of the pandemic on the usual legal tests of negligence.

This is relevant to clinical negligence claims and all Putting Things Right investigations where qualifying liability is being investigated by NHS bodies in respect of events which occurred during the pandemic. It is essential that NHS treatment affected by pandemic is judged in the context in which it was provided and not against pre-pandemic standards. Specialist teams within Legal & Risk Services have been set up to lead on these complex legal issues. This is co-ordinated by Head of Healthcare Litigation Sarah Watt.

Legal & Risk Services is supporting health bodies in their investigations and decision making in respect of the hospital acquired Covid-19 infections which occurred across Wales. It actively supported the Delivery Unit in the establishment of the NHS Wales National Framework for the Management of Patient Safety Incidents following Nosocomial Transmission of Covid-19 and will continue to support all health bodies in these investigations.

# Impact & Reach of our Professional Services



***Our professional services are designed to actively support health bodies and other clients in providing modern, fit for purpose service.***

## Clinical Negligence Team

The team is made up of over 50 solicitors and legal executives with extensive experience in defending clinical negligence claims against the NHS in Wales. We are recognised for our excellence and in-depth knowledge of each NHS body we represent within Wales. Most of our lawyers have been with Legal & Risk Services for many years and are experts in the fields of multi-million pound claims, complex litigation and every area of litigation we deal with. We provide training to all clients on a range of topics.

The team supports many All-Wales initiatives and is actively involved in national groups. Client relationships are extremely strong, which is essential in order to defend clinical negligence claims to trial and also to obtain consensus in respect of those claims which should be settled.

The Team aims to settle indefensible cases fairly and quickly in order to minimise anxiety for both patients who have been injured by negligent treatment and NHS staff involved in the legal claims. The strategic focus is to increase the use of alternative dispute resolution procedures, and avoid legal proceedings, in order to save costs and time; review the management of our high value claims and identify any improvements to promote robust financial reserving and improve efficiency; to focus on our lowest value claims and prepare for the likely introduction of fixed recoverable costs in clinical negligence claims next year.

The team also supports all work done by health bodies in respect of the PTR regulations, running regular clinics, providing All-Wales and individual client training and advising on the most complex matters.

The introduction of the Head of Healthcare Litigation will strengthen the strategic focus and drive change to improve efficiencies across Wales in respect to the management of clinical negligence claims.





## Commercial, Regulatory and Procurement Team

Our Commercial, Regulatory and Procurement Team have an exceptional number of years of experience in dealing with a vast array of legal disputes, overseeing the procurement process and advising on procedural fairness throughout NHS Wales.

The team advise health bodies throughout Wales on all manner of issues, both contentious and non-contentious, which includes Commercial (contractual arrangements) and public law matters (judicial reviews). We also help the NHS understand the complexities of the maze of regulation that exists.

Below is a non-exhaustive list of some of the topics that we are able to advise on:

- ▶ Commercial contracts
- ▶ Procurement law (Advice on regulations and procedure)
- ▶ Procurement documentation (Advice on drafting Invitations To Tender (ITT), Pre-Qualification Questionnaires (PQQ) and specification)
- ▶ Procurement challenges
- ▶ Outsourcing treatment and services
- ▶ Intellectual Property
- ▶ Regulatory law

- ▶ Public contract law (General Medical Services/General Dental Services Contracts)
- ▶ Public/Private partnership (National Cancer Service)
- ▶ Judicial Review of decisions
- ▶ Commercial Litigation
- ▶ Residency disputes
- ▶ Disputes between public authorities regarding funding
- ▶ Dispute resolution
- ▶ Policy drafting
- ▶ Construction
- ▶ Criminal
- ▶ Civil Fraud
- ▶ Injunctions
- ▶ Defamation
- ▶ Transfer of Undertakings & Protected Employees (TUPE)
- ▶ Information law (Data Protection and FOI issues).
- ▶ Debt collection
- ▶ International law (Memoranda Of Understanding & Service Level Agreements with foreign governments).



## Personal Injury Team

The Personal Injury (PI) team is formed of specialist solicitors and chartered legal executives. It deals with personal injury claims across all health bodies. The claims dealt with can range from relatively low value slip and trip claims to more complex matters such as mesothelioma and incidents resulting in permanent injuries.

The team also provides advice to clients in the following fields:

- ▶ Employers and Public liability
- ▶ Work related stress
- ▶ Bullying and harassment
- ▶ Violence & Aggression
- ▶ Industrial disease, including
- ▶ Asbestos
- ▶ Hearing loss
- ▶ Object and person manual handling
- ▶ Repetitive strain injury
- ▶ Defective equipment
- ▶ Infection Control
- ▶ Slip and trip cases

The PI team work cohesively to deliver an excellent service to our clients, including a bi-annual education day which aims to enhance the experience and understanding of NHS leaders.

The team also provides valuable analysis of trends as well as focusing upon learning lessons and giving practical risk management advice in areas that have been identified as vulnerable. We firmly believe that prevention is better than cure.

The team has also become involved in a range of specialist projects; most recently being the NHS Anti-Violence Collaborative titled "Obligatory Responses to Violence in Healthcare". It is recognised that NHS staff (Hospital, Ambulance, Community and Primary Care) are among those most likely to face violence and abuse during the course of their employment and there is a strong public interest in prosecuting those who verbally and physically assault NHS staff deliberately.



### **Complex Patient (Court of Protection)**

Our Complex Patient team is led by Gavin Knox; a specialist team which is comfortable dealing with highly complex and sensitive clinical situations where a patient's life or liberty might be at stake. Early intervention will often improve outcomes for patients. This may be by helping to ensure health board staff are acting in the best interests of the patient, or by resolving disputes that can in themselves cause distress to the individual.

- ▶ Mental Capacity Act and Best Interests for Children - there is a growing need for NHS staff to understand and implement the principles and provisions of the Mental Capacity Act. Our team offers a rapid and reasoned response to any capacity or best interests related query. By engaging early with clinicians, patients and families, we can usually assist in resolving disputes or ethical dilemmas and avoid the need for applications to be made to Court. The same applies to disputes about medical treatment or end of life decisions for children.

- ▶ **Deprivation of Liberty** - The full impact of the Supreme Court decision in *Cheshire West*, that redefined what amounted to a deprivation of liberty, is still being realised with enormous impact on NHS resources. We help health boards avoid unlawful deprivations and provide representation in the Court of Protection when a patient appeals against their detention.
- ▶ **End of Life Decision Making** (adults and children) - There are no more important decisions than those relating to the end of life. We are regularly instructed where disputes arise between clinicians and patients or their family about what treatment can lawfully be given.
- ▶ **Mental Health** - We help staff navigate the legislation and the difficult conflicts and interfaces with the Mental Capacity Act and Deprivation of Liberty.
- ▶ **Court of Protection & High Court Applications** - Not all issues can be resolved locally and ultimately some decisions need to be made by a Court. Often these can be highly contentious, complex, and emotive cases with the health, liberty or life of a vulnerable adult or child in the balance. We have extensive experience of making applications to both the Court of Protection and the High Court, each with their own particular rules and procedures. We offer a service that aims to resolve disputes quickly and sensitively to preserve therapeutic relationships with patients or families.

The Complex Patient team work on a real-time basis and are often involved in out of normal hours discussions, providing advice to clinicians dealing with these issues on a day to day basis.



## **Inquests Team**

We have a dedicated team that is able to support health bodies when preparing for and participating in coronial inquiries and inquest hearings

We support the whole inquest process and focus our legal input on those that raise complex Human Rights issues such as suicides, deaths in prison or involving patients in mental health detention, potential gross negligence, or systemic organisational issues.

Our experienced lawyers support health bodies in triaging inquest matters to determine those which will benefit from formal legal input and representation.



## Employment Team

Our Employment Team is led by Sioned Eurig. Since its inception in 2012, the team has acted for health boards and Trusts in a wide and diverse range of Employment Tribunal and County Court cases. The team has also had the privilege of advising on high level strategic policy issues.

The team can help with all types of claims in the Employment Tribunal including, but not limited to:

- ▶ Unfair dismissal (conduct and capability)
- ▶ Various types of discrimination (disability, sexual orientation, race, age, gender etc)
- ▶ Unlawful deduction of wages
- ▶ Holiday pay
- ▶ Whistleblowing
- ▶ Pension
- ▶ Agency worker rights
- ▶ Doctor disciplinary cases

The team can also help with the with wide range issues facing busy healthcare services:

- ▶ Interpretation of policies and procedures on an All-Wales level

- ▶ Issues arising out of the employment relationship (including advising on grievances and disciplinary hearings) including termination of employment
- ▶ Family friendly policies (i.e. Shared Parental Leave regime)
- ▶ Clinician banding appeals
- ▶ Severance packages and drafting settlement agreements
- ▶ The Transfer of Undertaking (Protection of Employment) Regulations 2006
- ▶ Voluntary Early Release Schemes and queries
- ▶ Doctor disciplinary issues
- ▶ All Wales matters in association with the Welsh Government
- ▶ Employment status
- ▶ Consultations and Redundancies
- ▶ Union Recognition
- ▶ Restructures

As well as helping clients to manage cases when things go wrong, the team also works with clients to train Workforce teams and line managers to reduce the risk of claims. Employment law is constantly evolving.

Our Employment team can offer a wide range of educational talks and seminars that can be delivered at our fully equipped premises. We are also able to tailor quarter, half or full day packages at a location to suit our client. Recent topics include:

- ▶ Training on the Upholding Professional Standards Policy
- ▶ Disciplinary investigations training
- ▶ Employment updates
- ▶ TUPE training
- ▶ Dignity at Work
- ▶ Whistleblowing





## **Property Acquisitions, Disposals and Leases Team**

Our property team provides advice across the NHS Wales estate, delivering a quality service at competitive rates. The team has extensive knowledge and experience in commercial property and of the NHS Wales estate.

The team works closely with NWSSP Specialist Estates team and undertakes a range of work, which encompasses:

- ▶ Leasehold acquisition of offices on behalf of NHS Trusts and health boards;
- ▶ Lease re-gears, including varying principal lease terms and break dates, as well as general management work (licences to alter etc.) in support of tenant works;
- ▶ Freehold sales of surplus commercial and residential properties, including provisions to protect future development rights of adjacent land retained by NHS Wales;
- ▶ Freehold acquisitions in connection with large-scale developments by NHS Trusts and Health Boards; and
- ▶ General, one-off property queries on sundry matters, including in the primary care field.



# Savings & Successes



We are justifiably proud of the services provided by all of the staff and teams with the Welsh Risk Pool and Legal & Risk Service.

We regularly monitor the savings that the professional influence of our teams brings to the NHS in Wales. This includes reducing legal costs in cases, successfully defending claims and other matters, influencing policy areas to reduce costs and delivering training to managers and staff throughout the NHS.

## Professional Influence Savings

In 2021/22, our professional influence savings and success were:

**£74,054,226.00**



This is expenditure that would otherwise be incurred by NHS Wales and would not be able to be spent on the provision of care.





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CYMRU  
**NHS**  
WALES

Partneriaeth  
Cydwasaethau  
Shared Services  
Partnership

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