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Shared Services
Partnership

Legal and Risk Services

Impact and Reach Report

**NWSSP Legal and Risk Services
including the Welsh Risk Pool**

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Introduction

Welcome to our 'Impact and Reach' report, we hope that this is helpful to your understanding of our work in Legal and Risk Services, for you, our NHS partners and customers.



Anne-Louise Ferguson MBE



Mark Harris

This report provides an overview of our work, not only in clinical negligence but also across our growing portfolio encompassing personal injury, employment, regulatory and commercial, property law, complex patients, safety and learning together with our comprehensive legal advice service to the NHS in Wales. We plan to issue this report twice a year, to share information about the impact of an ever-changing legal and healthcare environment on your local services, financial position and patient and staff experience.

We would welcome your views on the format and content of this report, to ensure that it is timely, helpful to your understanding of our services, and informative for action you may need to take in response to local and national issues.

Anne-Louise Ferguson MBE, retired from the role of Director of Legal and Risk Services at the end of March 2020 after 24 years of outstanding leadership and service. We would like to pay tribute to her commitment and that of her team for their efforts in improving outcomes and reducing the burden of harm on the NHS in Wales.

Mark Harris has been appointed to the role of Director of Legal and Risk Services. Mark was previously Deputy Director of Legal and Risk Services and took up his new post on 1 April 2020.

Who we are

Legal and Risk Services is a division of the NHS Wales Shared Services Partnership (NWSSP) and acts for NHS bodies in Wales, employing specialist lawyers to provide tailored, high quality, cost effective legal services and advice. Welsh Risk Pool (WRP) is part of Legal and Risk Services and manages the reimbursement arrangements for claims and engages with NHS bodies to ensure that lessons are learned.

We work with the health service to provide integrated legal risk management advice, to identify areas of concern, achieve improvement and share good practice.

Our key purpose is:

- to provide a comprehensive in-house legal and risk service to NHS Wales that is recognised as approachable, responsive and reliable; and
- to support health bodies in learning lessons from things that go wrong.

We employ 65 qualified lawyers, supported by 45 administrative, secretarial, and paralegal and trainee solicitor staff, across 14 teams.

The Welsh Risk Pool employs six substantive staff supported by 20 sessional and secondment staff managing the claims reimbursement process, feedback on lessons learned, promoting improved practice and delivering the quality and safety improvement programmes. The team provides support and training across NHS Wales to Board Members, clinicians, claims managers and administrators.

In recent years, we have grown our corporate legal services such as employment, property, regulatory, commercial and procurement law. The remit and breadth of the work undertaken by our Complex Patient Team has also grown significantly.

Ever changing operating environment

2020 will be another year of significant change for clinical negligence litigation. The introduction of a long debated fixed recoverable costs scheme for lower value clinical negligence claims may finally happen, leading to a reduction in costs that the NHS pays to Claimant's solicitors. We are part of the working group of interested parties which culminated in the proposals set out in the publication of the Civil Justice Council Report in October 2019. We are told that the Department of Health and Social Care will proceed to a further public consultation. However, following the disappointingly modest change in the personal injury discount rate (PIDR) last year, from -0.75% to -0.25%, it is difficult to speculate on potential savings at this stage.

We have introduced the Early Reporting Scheme across Wales requiring potential claims in respect of brain injuries suffered at birth to be reported to us within 30 days of the event. We hope this will result in earlier payments to families where the brain injury is proven to have been caused by negligent treatment and, the securing of evidence at an early stage to assist the defence of those cases which are defensible.

We will continue to fight dishonestly exaggerated claims against the NHS and pursue proven dishonest claimants through the legal system to ensure the imposition of both financial and custodial penalties wherever possible. The WRP committee has formally approved the use of surveillance in appropriate cases.

The **Health and Social Care (Quality & Engagement) Wales Bill** is set to become law this summer. It will implement an organisational Duty of Candour. This obligation will require Health Bodies to be open and honest with patients and families when things go wrong to promote a culture of openness and improve quality of care. The "candour" procedure will be set out in new Regulations and accompanying guidance, which we understand will fit in neatly with the present arrangements for openness and transparency under the NHS (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011. There will be a requirement that the Health Bodies report annually on when the duty has come into effect and the steps that have been taken to prevent any future occurrence.

In addition, it will create a new national body which will represent the interests of both health and social care services in Wales, replacing the Community Health Councils. It is hoped that this new body will strengthen the voice of service users, making sure they are listened to and to continue to support them when making a complaint about their care. **The Public Services Ombudsman (Wales) Act 2019** became law on 22 May 2019. The Act gives the Public Services Ombudsman for Wales ("PSOW") extended powers in a number of areas relevant to Health Bodies such as the ability to accept oral complaints, to investigate private medical treatment in cases where there is a NHS/private care pathway and, the ability to undertake own initiative investigations. This is arguably the most significant change to the PSOW powers.

Legal and Risk Services are pleased to be assisting the PSOW Network in liaising with the PSOW regarding the new powers.

Clinical Negligence

Our Clinical Negligence teams provide advice and guidance to all NHS Wales organisations. Every NHS organisation has a named contact or Team Leader for clinical negligence:

- Liz Dawson**
Betsi Cadwaladr University Health Board and Welsh Ambulance Services NHS Trust
- Sarah Watt**
Cardiff & Vale University Health Board and Velindre NHS Trust
- Vanessa Llewellyn**
Cwm Taf Morgannwg University Health Board and Public Health Wales
- Fiona Webber**
Swansea Bay University Health Board
- Alison Walcot**
Aneurin Bevan University Health Board
- Anne Sparkes**
Hywel Dda University Health Board and Powys Teaching Health Board
- Mark Harris**
Public Health Wales



Liz Dawson



Sarah Watt



Vanessa Llewellyn



Fiona Webber



Alison Walcot



Anne Sparkes

The team defend all clinical negligence claims made against the NHS in Wales. Our aim is to ensure in every case that the outcome is fair and reasonable to the patient and to the NHS and its staff.

Where claims are justified we aim for early settlement. Claims are managed proactively and robustly to ensure a fair and equitable settlement. However, where unjustified claims are made, these are robustly defended, to a trial if necessary.

We investigate claims as quickly as possible. We meet with clinical and other staff and obtain expert evidence as appropriate. Due to our unique relationship with our clients we are able to provide unparalleled support to members of staff who are witnesses in claims.

An increasing number of claims made against the NHS Wales are worth in excess of £1million. These claims are often very complex and require management by our highly

skilled solicitors. We have extensive experience in managing such high value claims. We have a specialist costs team which monitors all claims for costs, advising throughout the team to ensure Claimant solicitors' costs are robustly managed. Significant costs savings are regularly made.

Some cases require the early involvement of the legal team, which can have a marked impact on the overall costs in a case and the approach taken in relation to admissions made. A key area where this early involvement has benefits is in relation to maternity cases where there may be life-changing impact to a baby's health. We have introduced the Early Reporting Scheme which requires organisations to notify the Legal & Risk Team of specified cases within 30 days. This enables us to allocate an experienced lawyer to support organisations in ensuring that the investigative process being undertaken locally is as effective as possible.

The law governing clinical negligence litigation is complex and constantly changing. We pride ourselves on keeping our clients up to date with significant legal changes. Members of the clinical negligence team give regular talks to a wide variety of staff groups across the NHS in Wales.

General Medical Practice Indemnity (GMPI)

The Scheme for GMPI went live on 1 April 2019. GMPI is a discretionary state-backed scheme providing indemnity for providers of GP services in Wales for compensation arising from clinical negligence claims relating to the care, diagnosis and treatment of a patient following incidents on or after 1 April 2019. NWSSP Legal and Risk Services have been commissioned by Welsh Government to operate the scheme.

We have established a GMPI FAQs section on our website to reflect the actual queries received since the scheme went live on 1 April 2019. A copy was sent to all GP practices and GPs on the medical performers list in Wales. Queries have been received from Health Boards, practices and individual GP staff. Queries come to the team via the GMPI telephone helpline or dedicated GMPI e-mail address.

You can find these along with our detailed guidance note on GMPI on our website here: <http://www.nwssp.wales.nhs.uk/general-medical-practice-indemnity>.

Our GMPI team offers practices guidance in dealing with concerns raised via the Putting Things Right scheme and we have supported a number of practices with complex complaints received relating to treatment provided post 1 April 2019. The team also benefit from the "in-house" assistance of the NWSSP newly appointed Medical Director, Professor Malcolm Lewis, who is an experienced GP and medico legal expert and supports the team by providing a clinical perspective on complaints and claims, which fall within the scope of the GMPI scheme.

The team have attended GP Practice Manager meetings and various Health Board CPD events across Wales throughout 2019-20 providing workshops, newsletters and practical guidance regarding the new scheme including when and how to report a claim post 1 April 2019. These sessions have been well received and this proactive and collaborative approach has enabled GP staff to better understand the role of Legal and Risk and the interface between Legal and Risk and the continuing role of the medical defence organisations. The team attends the claims manager network to provide Health Board staff with an update on the scheme. The team plan to provide workshops to GP Practices on managing Putting Things Right complaints in 2020-21.

The current caseload consists of the following:

- 1,393 GMPI communications i.e. general queries
- 929 patient concerns or complain notifications
- 23 potential clinical negligence claims notified
- 2 letters of claim received (not yet quantifiable)

Two letters of claim were received before the yearend date and have a 'Possible' status in terms of likely settlement. These have been classified as contingent liabilities rather than provisions at the 31 March 2020 and have a combined quantum value of approximately £96k. If you are interested in hearing more about the GMPI scheme, then please contact the team via email GMPI@wales.nhs.uk.

Welsh Risk Pool

The Welsh Risk Pool (WRP) forms part of our Legal and Risk Services Division. The WRP has responsibility for reimbursement of claims handled under NHS Indemnity over £25,000 and reimbursement of all claims handled under the GMPI Scheme (the £25,000 threshold does not apply to GMPI matters). The cases reimbursed mainly relate to clinical negligence and personal injury matters, although the scope of the WRP includes buildings and, in exceptional circumstances, equipment.



Jonathan Webb

The role of the Welsh Risk Pool was expanded in 2018 to include responsibility for the appropriate reimbursement of permitted costs and damages arising from Redress cases. Redress cases, introduced in 2011 through the 'Putting Things Right' arrangements, deal with matters where there is a qualifying liability arising from complaints and healthcare reported incidents. Effective use of the Redress process has a direct impact on the litigation costs for each organisation, with average savings of over £30k in claimants' costs.

It is essential to have effective processes for ensuring that NHS Wales learns from events to limit the risk of recurrence and improve the quality and safety for both patients and staff, and the WRP oversees the Learning from Events process for Claims, Complaints and Redress Cases.

In addition to reviewing events that have occurred, our clinical assessors and safety & learning team undertake a range of proactive clinical assessments in sectors which are high-risk for litigation, as well as assessing the arrangements for the management of concerns and learning from events.

NWSSP has responsibility for the administration of the WRP including the management of the Welsh Risk Pool Budget. In line with standing orders, the NWSSP has resolved to establish a sub-committee to be known as the Welsh Risk Pool Committee (WRPC). The WRPC is a sub-committee of the NWSSP Committee and has no executive powers, other than those specifically delegated in the Terms of Reference. The WRPC has its membership and Terms of Reference updated to reflect the additional responsibilities relating to GMPI.

The WRPC comprises of representation from senior NHS professionals from Trusts, Local Health Boards, Legal and Risk Services and the Welsh Government, and the

Chair is Margaret Foster, Chair of the NWSSP. The WRPC has met 6 times during 2019-20:

- May 2019
- September 2019
- January 2020
- July 2019
- November 2019
- March 2020

Improving Learning from events

The WRP has during 2019 implemented a revised process to bring the scrutiny of learning in relation to all claims and redress cases much earlier in the process than previously.

From reviews of 2017 and 2018 claim cases, it was clear that learning reports are frequently only commenced at the point that they need to be submitted as part of the reimbursement process. This is despite the index events occurring a number of years prior to the reimbursement request and therefore there is a loss of opportunity in implementing action and improvements to reduce the risk of a reoccurrence.

The aim therefore is to alter the point when scrutiny of learning takes place from the point when reimbursement is requested from the WRP to a defined period (60 working days) from when the decision to settle a claim is reached.

Our research conducted on a sample of just over 250 claim cases shows that by bringing forward the scrutiny of learning in this way will mean that action plans are produced and implemented an average of 18 months earlier than previously. Pilots of the revised process were implemented in 4 claims teams across Wales which showed that there is a need to introduce a sense of urgency and important to this issue in order to gain the support of the clinical teams but that the alternative process provides the opportunity for local governance of learning plans.

Fig 1. Outlines the former process for scrutiny of learning from claims – with learning plans submitted at the point of reimbursement:

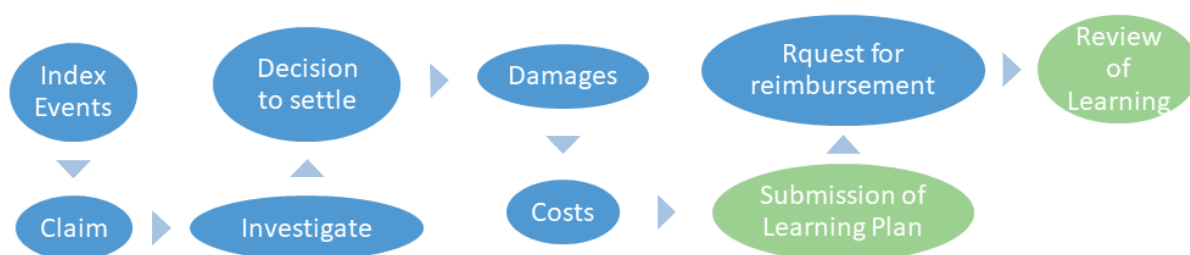
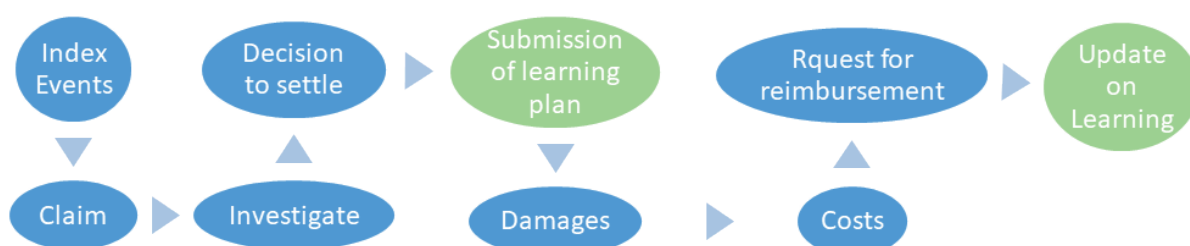


Fig 2. Highlights the opportunity to introduce earlier scrutiny of learning at the point of a decision to settle a case:



Casual Factor Analysis

It is clear that careful analysis of the circumstances of a claim provides an opportunity to establish the themes and trends, and to ensure that priority is given to actions addresses the identified issues. The Welsh Risk Pool analyses the risk data held within claim records to determine common findings.

- **Generic Causal Factors**

Research into the claims and redress case records identifies three generic causal factors and this enables organisations to align their improvement work to these issues.

Communication Issues: Failures and errors in communication between healthcare professionals, teams and services. Issues in communication with patients and their carers

Documentation Issues: Errors and failings in record keeping capture of pertinent clinical information to aid decision making and loss of information.

Escalation issues: Issues relating to failures to escalate care to senior clinical staff or alternative specialty staff.

- **Thematic Analysis**

Through the review of causal factors, lessons learned and actions implemented in relation to cases across NHS Wales, the Welsh Risk Pool is in a unique position to be able to identify specific areas where improvement in clinical and organisational practice is needed.

Maternity Services – CTG analysis and Human Factors

The Welsh Risk Pool budget continues to experience pressure from a dominance of claim values related to care within maternity services and the analysis of these cases demonstrate a clear trend of communication issues which have ultimately led to the circumstances in which a claim arose. The analysis, recording and action taken in relation to Cardio Toco Graph (CTG) reviews is an area which needs additional focus and the WRP has established an improvement programme to further build on previous work in this area. Communication issues when obstetric complications and emergencies occur remain a theme from claims, but the work of the PROMPT Wales programme in enhancing human factor awareness among clinical groups has already been identified in safety attitude and preparedness reviews as having a positive effect.

Access to Regional Services

An increasing area of focus from claims and redress cases during the last year relates to delays in referrals to, and acceptance by, regional specialist services, including neurosurgery and vascular services. The WRP will work with specialist services and central commissioning bodies to identify potential areas for improvement and monitoring.

Radiological Investigations

Delays and errors in interpreting radiological investigations has been a theme in claims and redress cases for some years and this is mirrored in other areas of UK healthcare. The national review of radiology services undertaken by the WRP in 2018-19 has highlighted that all organisations have discrepancy review processes, which monitor and reflect on errors in interpretation of images. Case reviews demonstrate that there is limited sharing of learning from these discrepancy processes – both locally within organisations and more widely across NHS Wales, and more needs to be done in this area. Additionally, with an increase in the

outsourcing of radiology reporting, organisations need to ensure that effective monitoring and oversight is in place.

Delays in acting upon unexpected and incidental findings on radiological reports is a stubbornly common theme, especially when the finding relates to a clinical specialty that did not request the investigation. The WRP national review of radiology services highlighted that a national electronic solution to ensure that findings were both communicated and acted upon was needed and would be welcomed by clinical teams. However, until an electronic solution is available, organisations need to invest in processes to avoid the delay or failure to act on an important finding.

The WRP will be undertaking a follow-up review from its national review and seeking updates on the actions taken by organisations.

Consent to Examination & Treatment

Cases involving allegations of a failure to adequately provide appropriate information on the risks, benefits and alternatives of procedures are increasing and the claims experience is that claimants are including these allegations in matters which may have a further issue or allegations – such as complications.

Building on the national work led by Welsh Government, the WRP has established a national team to drive the consent agenda across all services.

An unfortunately common finding is that information shared with patients is deemed inadequate during the investigation of a claim, but the information already available to clinicians via the EIDO Consent Information Download Centre would have presented a robust opportunity to defend the claim. The WRP has funded the EIDO system for a number of years and use of the information leaflets is very high. However, some clinical areas continue to use alternative forms of consent information. The WRP Committee has determined that during 2020-21 a requirement will be implemented, where claims are unlikely to be reimbursed unless the EIDO patient information leaflets are utilised.

Continuing Professional Development is being rolled out by the WRP - to aid the understanding and practical application of the principles of Consent to Examination & Treatment amongst healthcare professionals who participate in the consenting processes. This will be presented via a range of e-learning, workshops, webinars and conferences.

Pressure Ulcer Causal Factors

Despite almost all health bodies having organisation-wide strategies to address pressure damage, the frequency of such cases continues to be stubbornly high and many such cases, where the damage is deemed to have been avoidable, are resolved as redress cases or claims.

Having rolled out specialised Scrutiny Panel Training to over 170 Matrons and Ward Managers through one health board, the Welsh Risk Pool has been able to provide assurance in relation to the effectiveness of the case scrutiny process.

The Welsh Risk Pool also analysed over 160 serious incident, pressure damage cases and established a series of direct and indirect causal factors, which contributed to the occurrence of these events. This found that issues were commonly linked to failures in basic nursing care – rather than a need for complex

solutions.

The development of a Casual Factor table, which can be uploaded onto the Datix system, enables organisations to map their pressure ulcer prevention strategies to the causal factors that are identified as occurring in the organisation as a whole or more locally at ward or department level.

Implementing effective learning lessons from Redress Cases

The transfer of responsibility for reimbursement of redress cases moved from Welsh Government to Welsh Risk Pool on 1st April 2019 and a period of transition has been established to support health bodies during the change.

A key driver for this change was the need to implement scrutiny of the learning from each case – in a similar way that is undertaken for negligence claims, and move the redress process from a purely financial reimbursement model.

To provide support to health bodies during the period of transition, WRP Safety and Learning Advisors have been deployed to assist organisations to analyse redress case investigation findings and to link learning and improvement actions to these.

- **Progress to date**

Over 591 redress cases have been scrutinised since the transfer of responsibility for reimbursement and learning assurance has been confirmed in the majority of these cases. Claims teams have broadly welcomed the process for the provision of structured learning information. They are able to encourage clinical teams and departments to provide the required information and implement actions plans.

Review of the learning from redress cases has also undergone a significant change, with the creation of a peer-review panel. Formed of junior leadership clinicians from around Wales, the peer-review group shares the learning from all redress cases and makes recommendations to the Welsh Risk Pool Committee about whether the learning information is suitable and sufficient.

- **Streamlining the submission of information**

As part of the roll out of a new Once for Wales Concerns Management System (the replacement for current Datix systems), a portal system will be introduced which enables information about a case to be shared with the Welsh Risk Pool team and scrutiny of learning to be even swifter. This will reduce the burden on both local teams and the WRP Operations Team and free up more time to focus on learning from cases.

The majority of redress cases are managed locally within a health body, with limited involvement of the Legal and Risk Service. This a proportionate approach to dealing with cases, whilst there remains a need to ensure governance about how the financial values of a case are reached and that these offer value for money for NHS Wales.

The introduction of the requirement for health bodies to produce a Case Management Report provides the opportunity for local governance teams to review how the quantum (damages and other costs associated with a case) has been determined. This will provide an effective local scrutiny tool and facilitate all-Wales sharing of case management data between redress teams.

Safety & Learning Programmes

Analysis of the rich data available to the Welsh Risk Pool provides an insight into the types of claim, which are occurring. It is clear that the most expensive claims are those relating to maternity services, and a common incidental finding in a claim case relates to an issue with the consent-to-examination & treatment process.

The Welsh Risk Pool is supporting organisations in addressing these themes through its Safety & Learning Programmes.

PROMPT WALES

A national WRP team, leads the implementation and operation of PROMPT Wales in all maternity services across Wales.

This team develops national tools & resources, delivers train-the-trainer sessions and quality assures local training.



PROMPT Wales building on the well-established international PROMPT (PRactical Obstetric Multi-Professional Training) programme of human factors and situational awareness scenarios, which prepare clinical teams to recognise and deal with obstetric emergencies.

The introduction of PROMPT Wales is supported by Welsh Government and national standards for organisations to meet have been established and distributed via Welsh Health Circular WHC/2019/022. These will be reviewed during 2020-21 by the Welsh Risk Pool.

During 2019-20, the WRP, supported by colleagues from Powys Teaching Health Board, has developed and rolled out a Community PROMPT Wales package – specifically focussed at midwives delivering care in the community or midwifery-led units. PROMPT has been introduced into maternity services across the world and the implementation by the WRP within NHS Wales has been recognised by the PROMPT Maternity Foundation as achieving rapid and consistent adoption and roll-out. The implementation process has also been recognised by the Obstetrics & Gynaecology Society.

As part of data collection processes to measure the positive impact of PROMPT Wales, early results of from staff safety attitude surveys demonstrates that participation in PROMPT Wales training enhances the confidence of all grades and specialties of healthcare professionals who may respond to an obstetric emergency. Working with the Maternity & Neonatal Network, the Welsh Risk Pool aims to support the introduction of a national data measures for maternity services during 2020-21, which will strengthen the measurement of the impact of PROMPT Wales within all NHS Wales organisations.

CONSENT TO EXAMINATION & TREATMENT

The All-Wales Consent to Examination Treatment National Team has been formed by the WRP and has drawn together various national strands of work in this topic.

The WRP provides the EIDO Healthcare Download Centre of Consent Patient



Information Leaflets for all organisations in NHS Wales. These are already widely used throughout all organisations and arrangements for the development of new leaflets are in place to support the growing number of alternative procedures and pathways.

During 2019-20, the development and adoption of Wales-specific consent information related to the use of surgical mesh for stress-related incontinence was coordinated by the WRP – ensuring that NHS Wales has appropriate information available for use by clinicians across all organisations in respect of this UK-wide issue.

The digitisation of the consent to examination & treatment process is a workstream for the WRP during 2020-22. The existing contractual arrangements with the provider of the leaflet download centre facilitate the development and roll out of a digital platform for sharing information, capturing patient queries, identifying patient-specific risks and recording consent.

Building on the All-Wales Policy, published via Welsh Health Circular WHC/2017/036, The WRP will be undertaking a national review of Consent to Examination & Treatment through all NHS Wales organisations during 2020-21 - aimed at assisting organisations to establish local improvement plans and identify national themes and trends.

A national clinical group for Consent to Examination & Treatment will be re-focused during 2020-21 – helping organisations to recognise and understand the consent themes associated with their own claims and redress cases and determining national approaches to achieve consistency.

The support for learning and enhancing undertaking of the consent process by all healthcare professionals who participate in obtaining and recording consent is a key aim for the national team. A series of roadshows, webinars and conference-style learning sessions are planned for 2020-21, alongside the provision of a Wales-specific e-learning package on consent-to-treatment which is awarded CPD points by key royal colleges.

Once for Wales Case Management System

The Once for Wales Concerns Management System (OFWCMS) Programme Board has been established to support implementation during 2019-22. During 2019-20, the Programme Executive sponsor was Claire Bevan, former Executive Director for Quality and Nursing Welsh Ambulance Service NHS Trust.

The preferred provider following a tender exercise is RLDatix Ltd. Considerable work has already been completed to produce a system that meets the needs of NHS Wales now and in the future.

The new system will operate differently from the existing systems and the aim is to improve how data is captured and stored to strengthen the consistency in reporting across organisations and on a NHS Wales basis. The system also offered additional functionality including a case management process for Redress cases in NHS Wales, dedicated safeguarding referrals and management system and a process for recording and monitoring Deprivations of Liberty Safeguards.

An added area of strength will be how it facilitates the capture, escalation and presentation of risks, both as Risk Registers and Assurance Frameworks. The Board Secretary group are engaged in supporting common terminology and systems to enable this. The new system will also be able to support primary care services including community optometrists, dental practices and GP practices.

A small number of early adopters have been identified: Hywel Dda UHB, Swansea Bay UHB and Velindre University NHS Trust. Other NHS organisations will have the opportunity to be involved in piloting and trialling new functions that were not previously available on older systems.

All organisations will need to have a structured plan place on how they will support the system and business change 'roll out' and a single point of contact has been identified between the programme team and every organisation to ensure that effective communications are in place. Regular updates will also be provided through the Director's of Nursing forum, the Board Secretaries group and the National Quality & Safety Forum.

The rollout was originally planned over two financial years. However, to align with the introduction of a revised Serious Incident Framework, Welsh Government are currently working with the programme team to accelerate the introduction of the complaints and incidents functionalities.

Maria Stolzenberg leads the Programme Team, and a dedicated email address has been established at OnceForWales.CMS@wales.nhs.uk

Wider remit of our team

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 advises 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
- Commercial Litigation

- Residency disputes
- Disputes between public authorities regarding funding
- Dispute resolution
- Policy drafting
- Construction
- Criminal
- Civil Fraud
- Injunctions
- Defamation
- 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 headed by Andrew Hynes and deals with personal injury claims across all of the Health Boards. 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 provides advice 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 well together to deliver an excellent service to our clients, including a bi-annual education day. This day allows colleagues from across NHS Wales the chance to update and refresh their legal knowledge and provides an opportunity to network. Guest speakers including Barristers have also kindly provided talks on a range of subjects and exciting mock trials.

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. Prevention is better than cure.

The team has also become involved in a range of projects; most recently being the NHS Anti-Violence Collaborative titled "Obligatory Responses to Violence in Healthcare", which we are working towards publishing as a Welsh Health Circular. 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.

To address this the NHS Wales Anti Violence Collaborative (AVC) has been established which has representation from NHS Wales, the Police, CPS, Welsh Government and Unions.

Some of the aims of the Collaborative are as follows:

1. To improve the reporting of violent incidents;
2. To strengthen the investigation and prosecution process, by improving the quality and timeliness of shared information; and
3. To improve victim and witness care and confidence.

Information regarding the NHS Wales Anti Violence Collaborative can be found via our Communications Toolkit. <http://www.nwssp.wales.nhs.uk/communications-toolkit>.



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 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.
- **Inquests** – the team has overseen the whole inquest service in recent years, focussing on those that raise complex Human Rights issues such as suicides, deaths

in prison or Mental Health detention, gross negligence, or systemic Health Board failings. Demand is such that plans are being developed for a separate team to deal with all inquests.

All NHS Wales organisations are aware of how to contact this team out of hours for urgent advice.

Employment Team

Our Employment Team is led by Daniela Mahapatra. 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 following non-contentious issues:

- 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 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.

Our Response to COVID-19

All staff in the health & social care sector are working incredibly hard to increase capacity and to provide care to patients in these very challenging circumstances. It is important that indemnity concerns do not become a barrier to effective care arrangements and the development of alternative delivery models to support patient needs.

The NWSSP Legal & Risk Service has established a hub of experienced lawyers to provide advice on legal issues arising from the Coronavirus pandemic. This is co-ordinated by Senior Solicitor Sarah Watt and enquiries should be emailed in the first instance to Sarah.Watt@Wales.nhs.uk.

The Welsh Risk Pool Operations Team is able to provide advice on indemnity arrangements. The main WRP is of course closed but voicemails will be picked up. Anyone who has an indemnity query should address it in the first instance to the Head of Safety & Learning, Jonathan Webb, via email Jonathan.Webb@wales.nhs.uk or telephone 07850 521999.

Learning more about our work

We publish newsletters that contain valuable recent case studies reflecting our casework and the NHS in Wales. These newsletters help promote good practice and safeguard the wellbeing and care of patients and staff. They illustrate the impact of the work we do to deliver positive outcomes for the NHS in Wales.

You can access our regular newsletters on our [intranet pages here](#).

Key Messages for NHS Wales Health Bodies

We hope that the information contained in this report assists each organisation to focus quality and safety activities towards reducing the risk of harm and associated litigation.

Each organisation is asked to consider the areas of focus which are relevant to their own claims and redress case experience and develop improvement plans.

The Welsh Risk Pool Operations Team can assist in compiling a summary of claims for each organisation. The scope of these case summaries is currently limited due to the restrictions of the database currently used to store information, but as the new systems are implemented, the extent of claims and redress summaries will be further enhanced. If organisations would like to discuss the potential use of WRP data, please contact the team via email welsh.riskpool@wales.nhs.uk.

Some key messages for organisations to note include:

- **Early Reporting Policy**

For organisations which provide maternity services, ensure that appropriate staff are familiar with the requirements of the Early Reporting Policy, introduced in October 2019 – requiring organisations to notify Legal & Risk Services of specified cases. This is an important policy and reimbursement by the Welsh Risk Pool is dependent on compliance with the notification requirements, which are aimed at enhancing investigations and reducing litigation costs.

- **Learning from Events & Case Management processes**

All organisations are encouraged to review their corporate and local approach to learning from claims, complaints and redress cases – focussing on identifying lessons learned and monitoring / tracking actions agreed. Additionally, organisations should ensure that processes in place for case management, particularly redress cases, is efficient and complies with the PTR requirements.

The WRP will be undertaking a new style of WRP Assessments during 2020-21, focussed on ensuring processes are compliant with PTR requirements and encourage learning. The outcomes from these assessments will be included in the overall matrix of the risk share agreement.

- **Radiology**

Organisations which undertake radiological investigations are asked to note the findings of the previous review undertaken into this topic and ensure that improvement plans are in place. The WRP will undertake a further, focussed review during 2020-21.

- **Consent to Examination & Treatment**

All organisations are encouraged to ensure that their local policies are compliant with the all-Wales Policy on Consent to Examination & Treatment (WHC/2017/036) and to ensure that where an EIDO Consent Patient Information Leaflet is published it is utilised. The WRP will publish a Risk Management Alert during 2020-21 - with organisations required to demonstrate compliance with a range of requirements aimed at reducing the litigation profile for this topic.

- **Regional Specialist Services**

Providers and organisations accessing regional specialist services are encouraged to consider the arrangements for referrals and acceptance of patients into these services, with a process of risk-assessing patients who are waiting to determine clinical priority. The WRP has identified a growing trend of claims and redress cases arising from delays associated with some regional services and will work with partner organisations to identify improvements.

Welsh Risk Pool Finances

Estimated Resource Requirement

The complexity and uncertainty of underlying liabilities has long been recognised as the timeframe extends and because of changes in the Personal Injury Discount Rate (PIDR).

In February 2017, the Lord Chancellor announced a change in the PIDR from a positive 2.5% to a minus 0.75%. This PIDR change has led to a significant increase in the value of individual settlements and in particular to the amount attributable to future losses with lump sum compensation payments.

In addition, the solicitor time required on open cases has increased the average value of damages and costs are rising, as medicine and care costs have become more advanced and complex.

The most significant element of expenditure relates to clinical negligence matters that include the annual costs of claims settle using a periodical payment order (PPO) and/or lump sum payment order.

The Welsh Government provides the NWSSP with two distinct funding stream in respect of the WRP:

- i. **Departmental Expenditure Limit** (the DEL) to meet in year costs associated with settled claims arising within Health Boards and Trusts e.g. a lump sum or periodic payment order.
- ii. **Annually Managed Expenditure** (the AME) to meet the costs of accounting for the long term liabilities of claims i.e. the provision for the future costs of claims.

In the event that the annual revenue allocation from the Welsh Government is not sufficient to meet the value of the forecast in year expenditure i.e. the DEL, then the service bears the risk of any variation from the estimate and the excess will be subject to an agreed risk sharing agreement with the NHS Wales member organisations.

The DEL resource cover required by the WRP can be broadly summarised as follows:

- Reimbursements to member NHS Wales organisations in respect settled claims.
- Movement on the WRP claims creditor (where a claim has been settled by an NHS body but the payment was not made by the WRP before the yearend).
- Payments made in respect of WRP managed claims i.e. a former Health Authority claim.
- Payments made in respect of claims settled using a Periodic Payment Order.

Forecasting when claims will settle, and for what value, changes frequently as claims mature and more evidence becomes available. These forecasts are calculated on a case-by-case basis through the application of professional judgment from NWSSP Legal and Risk solicitors. They also take into account the monthly returns of expenditure received from the individual NHS organisations.

Increasingly claimants are asking for more to be put into the lump sum part of their damages and less to be paid by way of periodical payments (PPOs). This emerging trend is linked to the change in PIDR rates in 2017 and has not been reversed by the announcement made by the Lord Chancellor in July 2019 to change the PIDR from minus 0.75% to minus 0.25%. Quite often, this does not become apparent until the settlement meeting, late in the overall process. The impact is in respect of the timing

of cash flows and the level of payments made within the financial year (the DEL) and not on the overall value of the claims (the AME) which is payable over a longer period of time and include in the provision of the WRP.

The cost of clinical negligence is expected to rise in each of the next three years. Most of this additional cost relates to the change in PIDR. Consequently, invoking the risk-sharing agreement is the 'most likely' scenario for members of the WRP.

The risk-sharing model

The risk-sharing model was reviewed by the Welsh Risk Pool Committee and was revised as recently as 2016/17. Made up of five key areas, the model calculates a weighted risk sharing percentage per NHS organisation as follows:

	Area	Weighting
A	Hospital and Community Health Services and Prescribing Allocation	30%
B	Claims History	20%
C	New claims passed to Legal and Risk Services for Litigation	10%
D	Claims potentially affecting next years' spend: i. cases with estimated cash flows within a year ii. Periodic payment orders	25%
E	Management of concerns and learning from events.	15%

The model:

- Weights various contributory factors in order to provide a balanced and equitable system,
- Is transparent and auditable in its application,
- Accounts for the percentage of the allocation that is utilised before any in year settlements,
- Provides reward for managing Putting Things Right effectively,
- Can be updated every year to reflect recent activity and progress,
- Does not rely heavily on past events,
- Provides emphasis on activity and behaviours of the last year,
- Allows the inclusion of NHS Trusts that impact on the allocation usage but which were ignored in historic formula,
- Has systems and databases in place, which can easily manipulate and analyse information in a timely manner to derive the formula for future years.

Expenditure 2019/20

The indicative forecast revenue that was included in the NWSSP 2019-2022 IMTP is summarised below:

	2019/20 £M	2020/21 £M	2021/22 £M
Core allocation	75.000	75.000	75.000
PIDR funding (HMT)	31.500	32.800	33.400
Risk Sharing agreement income	3.701	6.900	8.700
Total	110.201	114.700	117.100

The 2019/20 allocation for the 2019/20 financial year was therefore anticipated to be £106.5M for clinical negligence and personal injury claims. £75M related to the

core allocation and £31.5M related to the impact of the change in the personal injury discount rate (PIDR) estimate, and the balance of £3.7M met from the risk sharing agreement.

At Month 4, an adjustment of approximately £4M was applied to take account of the announcement on 15 July 2019 by the Lord Chancellor to change the PIDR applicable to future losses within lump sum compensation payments, from minus 0.75% to minus 0.25%.

At Month 6, the DEL forecast was updated to a most likely scenario of approximately £110M. Assuming the funding from HM Treasury was reduced in line with the PIDR adjustment (£30M to £26M) then the net income requirement from the Risk Sharing Agreement rose from £3.701 to £9M.

At Month 7, the DEL forecast was revised to a most likely scenario of approximately £116.378M. The net income requirements from the Risk Sharing Agreement had therefore risen from £9M to £15.378M.

Following discussion with the WRPC and Directors of Finance group in November, Legal and Risk carried out a detailed case review on all those cases anticipated to settle in either the final quarter of 2019/20 or first quarter of 2020/21. Consequently, at Month 8 the DEL forecast was revised to a most likely scenario of approximately £110.851M. The net income requirement from the Risk Sharing Agreement being estimated at £9.851M.

There was little movement during Months 9 and 10 with a most likely scenario of £110.718M. The most likely net income requirement from the Risk Sharing Agreement was adjusted to £9.718M.

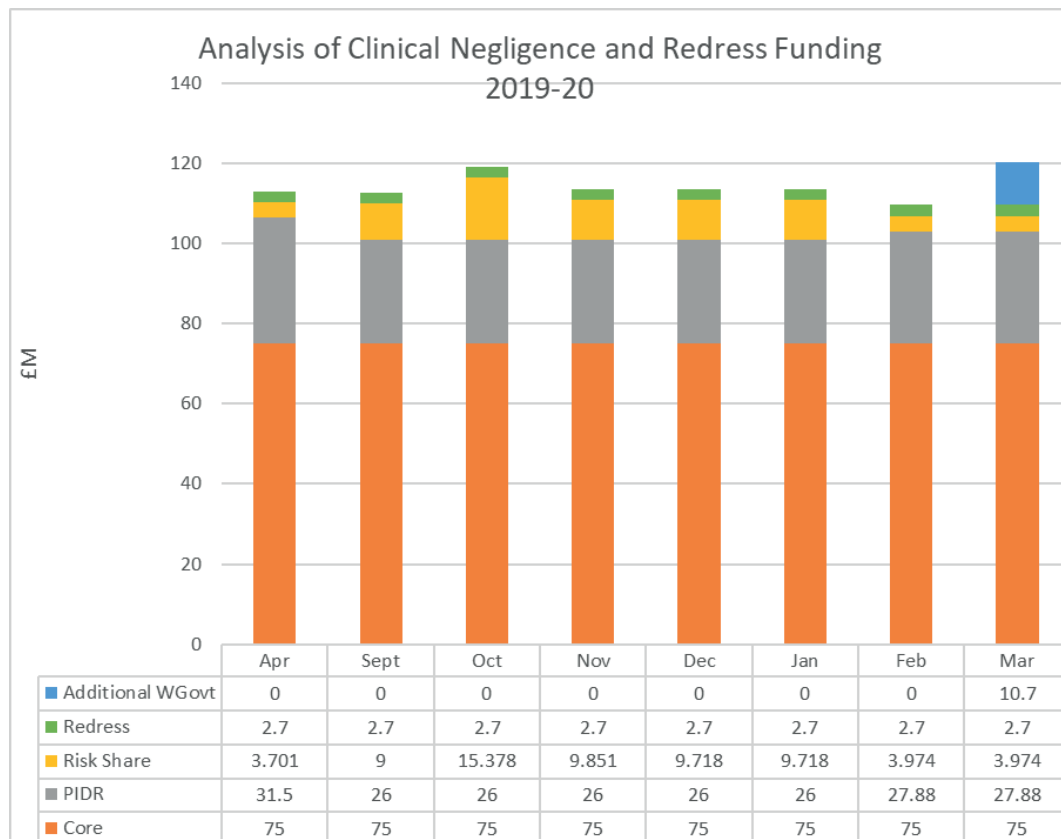
During February 2020, the Welsh Government was able to secure an additional £1.88M funding from HM Treasury as a contribution to the impact of PIDR. This and further changes to the timing and value of settlements resulted in a revised DEL forecast of £106.854M.

The Welsh Government agreed with Directors of Finance that the net income requirement from the Risk Sharing Agreement would be £3.974M to facilitate year end planning. A summary of the Risk Sharing agreement by organisation is set out in Appendix 1.

Any residual movements on the DEL forecast were managed between NWSSP and the Welsh Government, subject to available funding. This amounted to an additional £10.7M for two cases that settled late in March 2020. Welsh Government will apply a resource adjustment to Health Boards annual revenue allocation to recover the funding and will invoice the Trusts for their proportion.

By 31 March 2020, the total funding for 2019/20 was as follows:-

Funding Streams	£M
Welsh Government Core	75.000
PIDR Tranche 1	26.000
PIDR Tranche 2	1.880
NHS Wales Risk Sharing Agreement	3.974
Welsh Government Additional Funding	10.700
Subtotal before Redress	117.554
Welsh Government Redress	2.700
Total Funding	120.254



Resource utilised during 2019/20

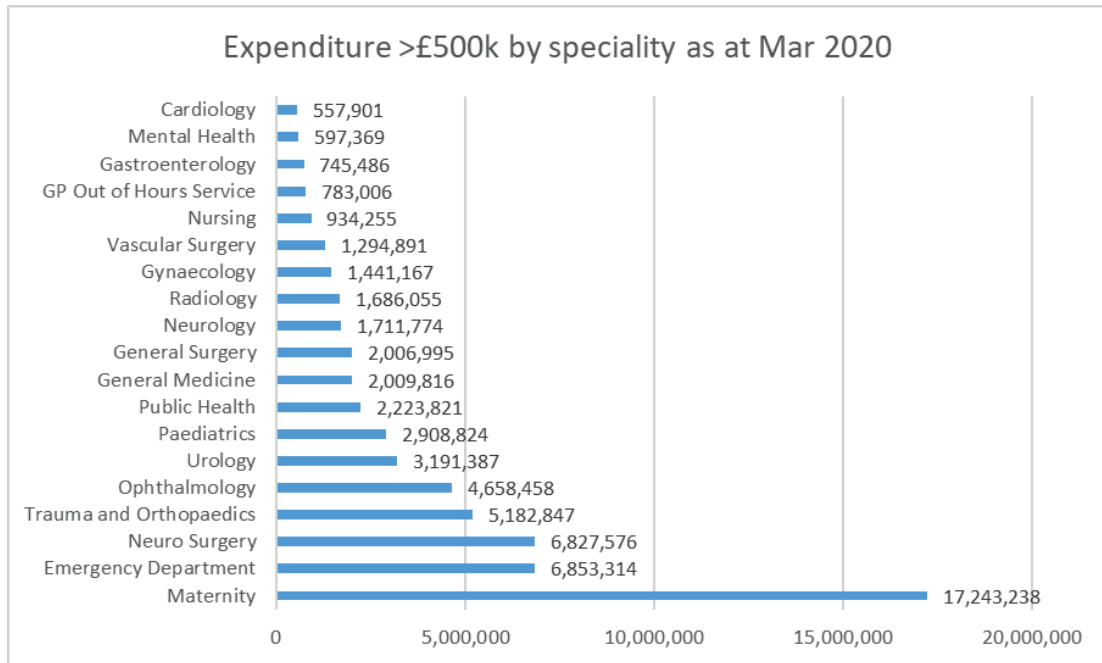
The total DEL expenditure amounted to £120.197M (including Redress) and a detailed breakdown is provided below:

Expenditure type	Position as at 2018/19 £M	Position as at 2019/20 £M
Claims reimbursed & WRP Managed Expenditure	102.994	68.036
Periodical Payments made to date	12.054	13.972
Redress Reimbursements	1.671	1.431
EIDO – Patient consent	0.062	0.238
Movement on Claims Creditor	(4.369)	36.520
Year to date expenditure	112.412	120.197

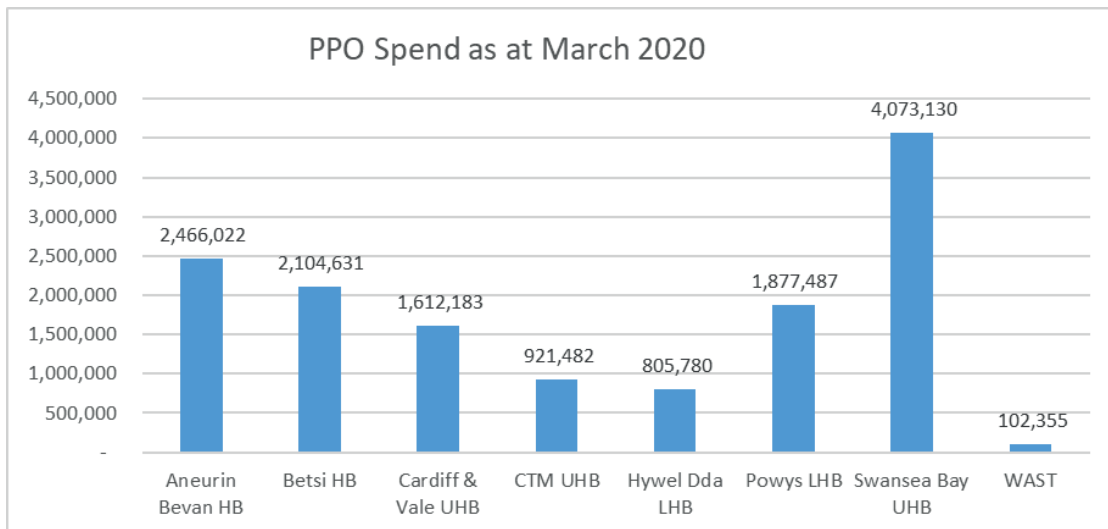
The increase in the movement on the claims creditor compared to last year can be explained by an unusually high number of high value cases settling in February and March. Health Boards and Trusts have not yet had the opportunity to seek reimbursement for these cases from the WRP.

Similarly, the decrease in claims reimbursements compared to last year relates to the same timing issues as the claims creditor. These cases have either not yet been submitted by Health Boards and Trusts to the WRP team for consideration or not yet been approved for reimbursement via WRP committee.

A summary breakdown of the reimbursement expenditure (£68.036M by speciality (specialties with spend >£500k) is below:



A breakdown of PPO expenditure as at end of March 2020 (£13.972M) by organisation is summarised below:



Provisions

Total provisions have risen to £1,133.965M in 2019/20, an increase of £52.524M compared to a £18.227M increase in provisions in 2018/19.

	Closing Provision 2018/19 £M	Closing Provision 2019/20 £M	Movement £M
Probable or certain	658.925	692.902	33.977
Structured Settlements/PPOs	422.516	441.063	18.547
	1,081.441	1,133.965	52.524

The effect of the Personal Injury Discount Rate change in March 2017 reached a plateau in 2018/19 after two financial years of significant increases in provisions. The subsequent change in August 2019 from -0.75% to -0.25% has had minimal effect compared to the previous change in 2017, when rates moved from a 2.5% positive rate to a negative -0.75%.

The movement on PPO's can be analysed as follows:-

	2018/19 £M	2019/20 £M
Opening balance	369.466	422.516
New PPOs	65.119	32.011
PPOs removed	-2.179	-6.840
Application of discount rates and RPI	-9.89	-6.624
	422.516	441.063

Total case numbers have reduced (1,793 at the start of the year compared to 1,674 on 31 March 2020) although probable and certain cases have remained relatively constant - a slight increase from 667 at the end of 2018/19 to 670 cases at the end of 2019/20.

As the 2017 PIDR effect has been fully provided for in claims valuations for the past two years, the increase in the provision mostly relates to the increasing value of claims for other reasons. An analysis of increasing claims values has been previously reported in the context of increasing annual spend, but the following also applies to the provisions elements:-

- Claimants are living longer due to advances in medical treatments with longer life expectancies which increase settlement values
- Cases are becoming more complex, with more treatment options for claimants, more multiple defendant cases and subsequently more expert contribution across multiple fields.
- General inflationary factors affecting large purchases e.g., house purchases, adaptations and carer's wages factored into the initial claims values.

Analysis of ongoing claims

	2018/19 No of Cases	£M	2019/20 No of Cases	£M
Probable	123	103.387	130	73.335
Certain	544	555.538	540	619.567
TOTAL	667	658.925	670	692.902
Contingent Liabilities	1,126		1,004	
TOTAL	1,793		1,674	
AVERAGE VALUE PER CLAIM	0.987		1.034	

The above table shows a reduction in the number of cases categorised as being contingent. The reduction is limited to contingent liabilities rather than provisions, i.e. remote and possible cases rather than probable and certain cases.

The average value of a claim for Probable & Certain cases has increased from £987K to £1.034M from 2018/19 to 2019/20. Provision values remain high, with the very high value cases becoming more expensive over the past few years due to a number of factors including:-

- Impact of the PIDR change in 2016/17
- Increasing complexity of high value cases
- Cases litigated at court involve far more work
- Increasing life longevity of claimants

A breakdown per Health Board and Trust for open claims including remote contingent and contingent liabilities is provided in Appendix 2.

Looking ahead to 2020/21

The allocation for 2020/21 has not yet been confirmed, but the table below reflects the figures in the approved NWSSP IMTP 2020-2023. These figures have also been shared with the NHS organisations party to the Risk Sharing agreement for planning purposes. The current forecast shows a resource requirement of £121M for 2020/21 and includes an assumption the Risk Sharing Agreement will be invoked, this is included in Appendix 3 by organisation.

The table below shows £13.78M relating to core claims growth to be re-charged to NHS Wales in 2020/21. The impact from the Personal Injury Discount Rate (PIDR) is estimated to be £32M and these assumptions are based on the current core WG allocation of £75M. Consistent with prior years neither Treasury nor WG will cover any movement above the annual £75M core allocation that does not relate to PIDR change (i.e. relating to general growth in claims costs).

	2020/21 £M	2021/22 £M	2022/23 £M
Core WGovt Allocation	75.000	75.000	75.000
PIDR impact – Separately funded	32.170	31.450	31.980
Risk Sharing Agreement (Core claims growth)	13.780	11.768	13.250
Total DEL forecast	120.95	118.218	120.23

Professional influence savings

During 2019/20, Legal and Risk has reported professional influence savings of £79.3M compared to £66.1M in 2018/19.

The table below provides an overview of the professional influence savings recorded for 2019/20 and reflects significant achievements in reducing the final settlements from that of the claimant's initial estimate.

Savings	£M
Claims above £100k	69.6
Claims less than £100k	4.64
Savings in relation to costs	1.8
Repudiated claims	3.1
Miscellaneous	0.2
Total	79.3

Note:

The final position for the Welsh Risk Pool annual accounts as at 31 March 2020 will be audited by the Wales Audit Office. These accounts are then consolidated into the annual accounts of Velindre University NHS Trust and published.

Appendix 1

Revised Risk Sharing Agreement 2019-20

	Total	Total	HSCS Allocation	Claims History	PTR	Cash flow < 1 year	PPO	Lessons learnt	Share of £3.974	Share of £3.701M Original Estimate
	2018/19	2019/20	A	B	C	Di	Dii	E	£M	£M
Aneurin Bevan	17.34%	17.04%	5.69%	2.49%	2.01%	3.49%	2.20%	1.16%	0.677	0.631
Betsi Cadwaladr	18.37%	18.44%	6.68%	3.39%	1.51%	3.12%	1.60%	2.14%	0.733	0.682
Cardiff & Vale	16.38%	15.32%	4.18%	4.59%	1.83%	2.33%	1.17%	1.22%	0.609	0.567
Cwm Taf Morgannwg	10.84%	11.97%	4.53%	1.63%	0.96%	2.85%	0.67%	1.33%	0.476	0.443
Hywel Dda	9.85%	10.72%	3.76%	1.66%	1.28%	1.82%	0.63%	1.57%	0.426	0.397
Powys	6.51%	5.86%	1.36%	0.72%	0.14%	0.60%	0.54%	2.50%	0.233	0.217
Public Health Wales	1.26%	1.20%	0.00%	0.19%	0.05%	0.04%	0.00%	0.92%	0.048	0.044
Swansea Bay	16.37%	16.09%	3.80%	4.64%	2.05%	0.75%	3.11%	1.74%	0.639	0.595
Velindre	1.10%	1.13%	0.00%	0.08%	0.00%	0.00%	0.00%	1.05%	0.045	0.042
Welsh Ambulance Service	1.98%	2.23%	0.00%	0.61%	0.18%	0.00%	0.08%	1.36%	0.089	0.083
	100.00%	100.00%	30.00%	20.00%	10.00%	15.00%	10.00%	15.00%	3.974	3.701

Appendix 2 -

Analysis of caseload activity for clinical negligence matters by Health Board & Trust at February 2020

2019/20	SBU	BCU	AB	CTM	HD	C&V	Powys	WAST	Velindre	PHW	Grand Total
Opening Month 1	360	342	318	215	265	239	13	27	4	10	1793
Closing Mth 12	311	318	297	229	212	246	12	29	7	13	1674
Movement	-49	-24	-21	14	-53	7	-1	2	3	3	119
Total opened 2019/2020	75	107	89	76	41	109	5	13	3	6	524
Total closed 2019/2020	-124	-131	-110	-62	-94	-102	-6	-11	0	-3	-643

2018/19	ABMU	BCU	AB	CTM	HD	C&V	Powys	WAST	Velindre	PHW	Grand Total
Opening Month 1	423	397	331	255	297	286	16	22	8	13	2048
Closing Month 12	360	342	318	215	265	239	13	27	4	10	1793
Movement	-63	-55	-13	-40	-32	-47	-3	5	-4	-3	-255
Total opened 2018/2019	104	67	83	37	55	74	3	8	2	3	436
Total closed 2018/2019	-167	-122	-96	-77	-87	-121	-6	-3	-6	-6	-691

Appendix 3

Forecast Risk Sharing Agreement by organisation

	RSA 2020/21	2020/21 April £	2021/22 £	2022/23 £
ANEURIN BEVAN	17.04%	2,348,310	2,005,582	2,257,983
SWANSEA BAY	16.09%	2,217,476	1,893,843	2,132,183
BETSI CADWALADR	18.44%	2,540,430	2,169,662	2,442,714
CARDIFF & VALE	15.32%	2,110,872	1,802,796	2,029,679
CWM TAF MORGANNWG	11.97%	1,648,925	1,408,270	1,585,500
HYWEL DDA	10.72%	1,477,117	1,261,537	1,420,301
POWYS	5.86%	806,778	689,031	775,746
PHW	1.20%	165,925	141,709	159,543
VELINDRE	1.13%	156,217	133,418	150,208
WAST	2.23%	306,950	262,152	295,143
TOTAL	100.00%	13,779,000	11,768,000	13,249,000