 <p>GIG CYMRU NHS WALES</p> <p>Iechyd Cyhoeddus Cymru Public Health Wales</p>	<p>Name of Meeting Quality, Safety and Improvement Committee</p> <p>Date of Meeting 04/06/2026</p> <p>Agenda item: 3.3.1</p>
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Policy / Procedure Approval Report

Section 1 - Policy / Procedure Information

Policy / Procedure Title	Claims Policy/Claims Procedure
Policy Lead	Heidi Jones, Legal Support Manager
Lead Executive	Paul Veysey, Board Secretary and Head of Board Business Unit
PHW / All Wales?	PHW
Date of last Review	Review began July 2025
Is the current policy / procedure within review date?	Previous policy due for review date July 2025
Approving Body /Group	Quality, Safety and Improvement Committee
Version Number	5

Section 2: Recommendation

That the Quality, Safety and Improvement Committee:

- Considers the information contained within the Policy, Procedure and Equalities Impact Assessment (Appendix 1a)
- **Notes** that the Leadership Team endorsed the policy and procedure.
- **Approve** the Claims Management Policy and Claims Management Procedure



Section 3 – Details of the Review:	
Background:	
Reason for review	<ul style="list-style-type: none"> review deadline passed
Description/Assessment	<p>Claims are a constant risk to the NHS, this policy is designed to provide a process to ensure that claims are managed and dealt with in a timely manner and in line with legislation.</p>
Consultation	
Has this Policy / Procedure been through the appropriate 28 day consultation process?	Yes
Date range of consultation:	19 th August – 19 th September 2025
Please provide details of any feedback received and outline what changes if any were made to the document as a result:	<p>Feedback received from Information Governance team. Not for changing the documents but to consider using DCHW for secure file share app for external sharing of documentation and using Sharepoint for intra NHS Wales comms.</p> <p>No changes made to policy and procedure. DCHW secure file share app is already being used for external document sharing. Sharepoint for intra NHS Wales comms is also used where practical.</p>
Had this policy / procedure been considered by any other groups?	Leadership Team at its meeting on 21 May 2026
If so, please provide detail of any comments / feedback or amendments made to the documents as a result of this	No comments were received. The Committee endorsed the policy and procedure to QSIC.

Section 4: Impact Assessments	
Equality and Health Impact Assessment	No issues identified, EqHIA supplied with Policy.
Welsh Language Impact	The Policy / Procedure will be translated to welsh and available on the internet bilingually.
Risk and Assurance	Claims are a risk to the organisation, this policy and procedure sets out how to manage claims and reduce risk to the organisation.



Health and Social Care (Quality and Engagement) (Wales) Act	N/A
Financial implications	There are no financial implications of the policy update.
People implications	There are no changes to the processes or impact on staff/workforce than already existed with the previous version of this policy.
Socio Economic Duty	No impacts

Action5 - Implementation

Implementation plan (with timescales)		
Next steps	Timescale	Responsible officer(s)
Endorsement at Leadership Team	May	Legal Support Manager / BBU
Approval at QSIC	June	Legal Support Manager / BBU
Policy and Procedure will be implemented immediately on approval	June	Legal Support Manager

Section 6 – Dissemination

The primary source for dissemination of the claims policy and procedure within the organisation, wider community and our partners will be via the the Putting Things Right Teams page and listed with other policies on the main policy intranet pages.



Reference Number: PHW16

Version Number: V5

Date of Next review: July 2026

CLAIMS MANAGEMENT POLICY

Policy Statement

This policy describes the arrangements for managing clinical negligence and personal injury claims made against Public Health Wales.

Public Health Wales has a legal duty of care towards service users, staff and members of the general public, who come in to contact with the services it provides. People who consider they have suffered harm from a breach of this duty can make a claim for damages against Public Health Wales.

Wherever possible Public Health Wales will strive to avoid the need for legal action to be taken, by providing safe and high quality services.

Where legal action is unavoidable, Public Health Wales will aim to deal with all claims equitably, fairly and as quickly as possible, dealing with each claim on its own merit and seeking expert advice as appropriate.

This policy has been produced to satisfy the requirements of Section 8 of the Putting things Right – Guidance (title update pending) on dealing with concerns about the NHS and ensure that Public Health Wales manages claims in accordance with the Pre- Action Protocols laid down by the Civil Procedure Rules 1998.

Wherever possible, service users will be offered the opportunity for concerns to be dealt with under the Putting Things Right Regulations.

Policy Commitment

Public Health Wales will adopt a common and standardised approach to deal with all clinical negligence and personal injury claims.

This policy aims to ensure that appropriate structures and reporting mechanisms are in place to enable claims to be investigated and managed in a proactive and timely manner.

Supporting Procedures and Written Control Documents

In line with the requirements of the Welsh Risk Pool, a claims management procedure has been developed to support implementation of this policy. The claims management procedure includes information on the following areas:

▣ Detailed information on the claims management process, including:

- Timescales for the exchange of relevant information with claimants in accordance with the Civil Procedure Rules 1998.
- The timescales and process for dealing with low value personal injury claims (claims under £25,000) via the e-claims government portal
- Claims escalation process
- Litigants in person
- Out-of-court Settlements
- Court proceedings
- Monitoring and auditing arrangements
- Welsh Risk Pool Claims reimbursement process and Claims review process
- † Internal reporting arrangements

Other related documents are:

- Claims Management Procedure
- Claims Management Standard Operating Procedure
- Putting Things Right Policy (title update pending)
- Incident Management Procedure
- Redress Procedure
- Complaints procedure
- Health and Safety Policy & Procedure
- Risk Management Policy & Procedure

Scope

This policy has been produced for the management of Clinical negligence and Personal injury claims.

The scope of this policy covers all staff employed by Public Health Wales, involved in the management of or response to a claim received about the services provided by the Trust.

This policy does not apply to those cases which fall under the 'Reporting of damage or loss to personal property policy'.

Equality, Welsh Language and Health Impact Assessment	An Equality & Health Impact Assessment has been completed. The impact of this policy is largely positive. The positive effect could be enhanced with a document which is aimed at service users. This option will be explored with the Welsh Government who are currently reviewing the 'Putting things Right' leaflet.(title update pending)
Approved by	Quality, Safety and Improvement Committee
Approval Date	
Review Date	
Date of Publication:	
Group with authority to approve supporting procedures	Leadership Team
Accountable Executive Director/Director	Paul Veysey, Board Secretary and Head of Board Business Unit
Author	Heidi Jones, Legal Support Manager
<p><u>Disclaimer</u></p> <p>If the review date of this document has passed please ensure that the version you are using is the most up to date either by contacting the document author or Board Business Unit</p>	

Summary of reviews/amendments

Version number	Date of Review	Date of Approval	Date published	Summary of Amendments
V1	20.11.15	21.03.13	21.03.16	New policy introduced to
				replace the Velindre NHS Trust Claims policy.

V2	10.10.14	21.01.15	02.02.15	Policy reviewed to reflect changes in management structures
V3	22.07.16	26.01.17		Reviewed to ensure compliance with the requirements of the Welsh Risk Pool Services. Additional information on lessons learned and links between claims, concerns, incidents and other risk information added to policy.
V4	21.02.22			Policy updates to reflect changes to management structure & Welsh Risk Pool arrangements & legislation updates
V5	13.02.25			Reviewed to ensure compliance with requirements on reviewing Procedures. Updated to reflect changes to management positions and change of name of directorate.

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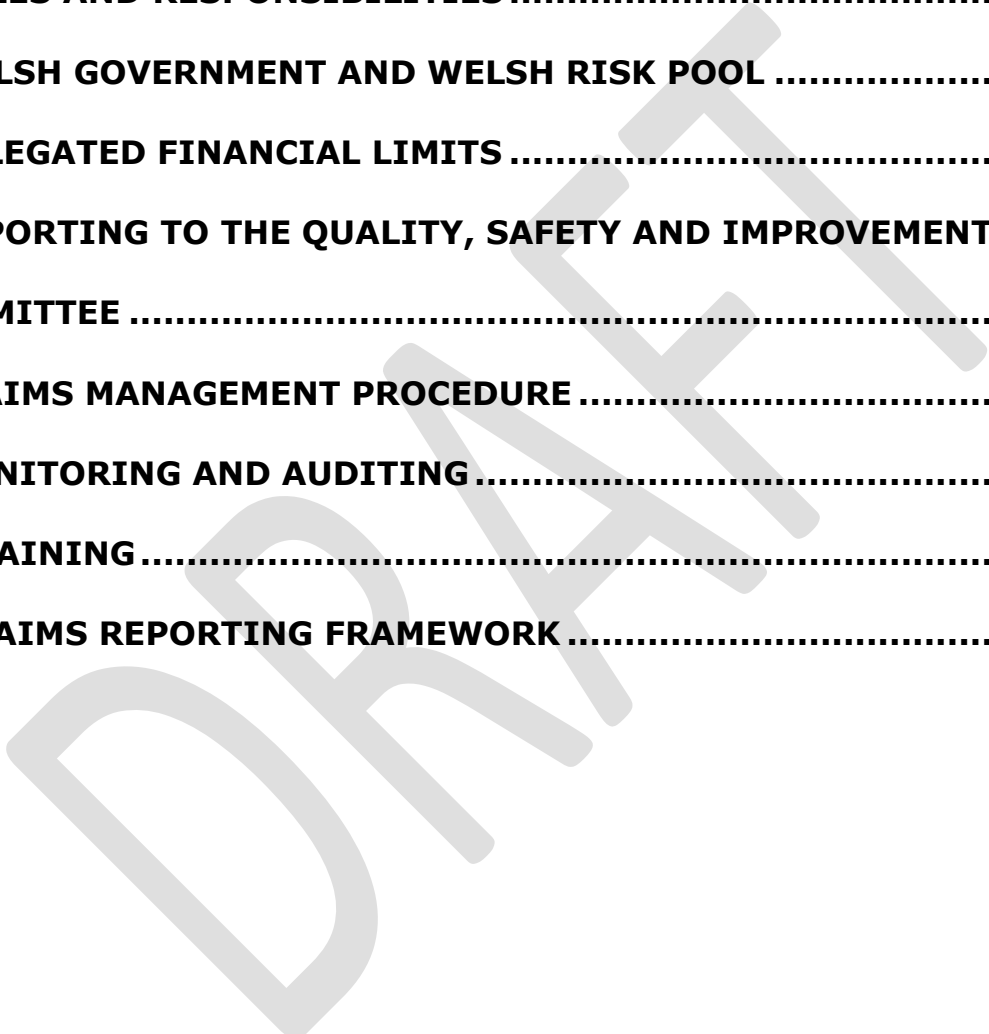
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1. Introduction

Public Health Wales has a legal duty of care towards its service users, members of the general public and its staff.

In accordance with the principles of Being Open, Duty of Candour and the Putting Things Right Arrangements (title update pending), Public Health Wales will, in the majority of cases, have investigated any concerns and clinical incidents at the earliest opportunity and involved the patient or their next of kin/ representative in the investigation process, providing the necessary support throughout.

Where appropriate, any failings in care, resulting in a qualifying liability will have been resolved under the NHS Redress Scheme and access to legal advice provided.

Where cases are not suitable for the NHS Redress scheme or where service users do not wish to access this, these cases will be dealt with as a formal claim under the Civil Procedure Rules 1998.

People who feel they have suffered harm from a breach of this duty are able to make a claim for compensation against Public Health Wales and are usually supported in this process by a legal representative who will liaise on the service user's behalf with the Trust.

For a claim to be successful, a claimant must prove:

- that he/she/they were owed a duty of care;
- that the duty was breached;
- that the breach of duty caused, or contributed materially to, the damage in question; and
- that there were consequences and effects of the damage.

2. Definitions

2.1 Clinical Negligence

"Healthcare professionals can be found to be negligent where treatment they have provided, acting in their professional capacity in the course of their employment, falls below the accepted standard of care and this negligence has caused harm".

2.2 Personal Injury

“Personal injury refers to harm (physical or psychological) suffered by an individual due to the negligence, wrongful act, or breach of statutory duty of another party.”

2.3 Redress

“An apology, remedial treatment and/or financial compensation”

3. Aims

This policy is an integral part of the Risk Management Strategy and Policy and is intrinsically linked to its systems for managing and learning from nationally reportable incidents and concerns. The aim of this policy is to ensure that Public Health Wales will manage all claims made against it fairly and as speedily as possible, dealing with each claim on its own merits and seeking legal and expert advice as appropriate.

4. Roles and responsibilities

4.1 Chief Executive

The Chief Executive has overall responsibility for claims management and for keeping the Board informed of major developments and significant issues. The Chief Executive will ensure that there are sufficient resources to support claims management.

4.2 Board Secretary and Head of Board Business Unit

The Board Secretary and Head of Board Business Unit is the Executive Lead for claims and has delegated responsibility for issues relating to clinical negligence and personal injury claims. The Board Secretary and Head of Board Business Unit is responsible for authorising decisions in relation to admissions of liability and for authorising expenditure, in line with the scheme of delegation as set out in the Claims Management procedure. The Board Secretary and Head of Board Business Unit will ensure the effective management of claims and will keep the Quality, Safety and Improvement Committee and Board informed of major developments.

The Board Secretary and the Legal Support Manager are accountable for the management of claims for ensuring compliance with this policy and the Claims Management Procedure including compliance with delegated authority limits and for securing the most cost-effective resolution of claims. The Trust acknowledges the importance of the claims management process within its organisation and will ensure that the process and the appointed Legal Support Manager have sufficient

seniority and profile as required by the WRP standard 5 - Concerns and Compensation Claims Management.

4.3 Executive Team

The Executive Team have delegated accountability and responsibility within their service areas for adherence to and for the implementation of this policy. They must ensure that there are appropriate structures and processes in place to facilitate the investigation of claims and ensure that lessons learned from claims are identified, documented, addressed, implemented and audited.

4.4 Divisional Directors & Heads of Programme

Divisional Directors and Heads of Programme are responsible for establishing structures to ensure that claims are appropriately investigated within the Division/Service area. This includes establishing reporting and monitoring arrangements with a focus on lessons learnt. They must also ensure they engage with the Legal Services Manager to support investigations into claims in their respective Division. In addition, they will be responsible for ensuring that any identified failings which arise during the investigation of a claim are addressed and any lessons learned shared across the organisation. They will be responsible for producing the implementation and monitoring of action plans.

4.6 Senior Investigation Manager

Public Health Wales has designated Quality, Safety and Putting Things Right Manager for the Directorate of Nursing, Quality and Integrated Governance with responsibility for the handling and consideration of concerns and incidents. The Quality, Safety and Putting Things Right Manager is responsible for overseeing and implementing processes to ensure compliance with the NHS (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011.

4.7 Claims Investigation Leads

The Legal Support Manager is the lead investigation manager for all clinical negligence and personal injury claims.

4.8 Role of the Legal Support Manager

In order to fulfil the requirements of Section 8 PTR Guidance, Public Health Wales will ensure that the Legal Support Manager has sufficient seniority or that the organisational structure is sufficient to ensure that this occurs. The Legal Support

Manager will have direct access to the Chief Executive, Executive Lead for claims and the Executive Team as necessary to achieve the objectives for effective claims management.

The Legal Support Manager is responsible for the day to day management of claims, as set out in the Claims Management Procedure and as referred to in 4.2 above.

The Legal Support Manager will work closely with the Quality, Safety and Putting Things Right Manager to identify incidents and claims which could be considered under the 'Putting things Right' Redress Scheme. The Redress process is set out in Public Health Wales' Redress Procedure.

4.9 Legal Advisers

Public Health Wales will use legal advisors in the defence or settlement of clinical negligence and personal injury claims. Small to moderate value claims of moderate complexity can be managed in-house by the Legal Support manager. All other claims will be managed by Legal & Risk Services from NHS Wales Shared Services Partnership (NWSSP).

The procedure for instructing and liaising with Legal & Risk Services is set out in the Claims Management Procedure.

4.10 Managers and Staff involved with claims

Managers and Staff involved with claims will be kept informed of the progress and outcome of all individual cases via the Legal Support Manager.

4.11 All members of staff

The co-operation of all staff involved in the incident leading to a claim is crucial. Public Health Wales staff will support the Legal Support Manager and any duly appointed legal advisors, in the handling of the claim. All staff providing such support will be provided with the necessary support through the process.

All members of staff have a duty to fully and openly co-operate in the assessment, examination and investigation of any legal claims and must comply with this policy and the claims management procedure.

All members of staff must report incidents and accidents on Datix, including those that may lead to claims for compensation, in line with Public Health Wales promotion of a fair, blame free culture. When reporting incidents, a detailed description of the incident must be provided, along with information on the potential Claimant, witness statements/contact details of relevant members of staff involved or witness to the incident and any other relevant documentation should also be uploaded to the Datix incident record.

Unless there are exceptional circumstances, any member of staff asked to do so should provide the Legal Support Manager or legal advisor with written comments or formal written or oral testimony and information regarding the investigation of the relevant claim in a timely manner.

Public Health Wales recognises that providing a statement and giving evidence can be a stressful experience and will ensure that full support and guidance is provided to members of staff who are asked to give evidence on behalf of Public Health Wales.

5 Welsh Government and Welsh Risk Pool

The Welsh Government funds the Welsh Risk Pool (WRP) by a top slicing arrangement.

The Welsh Risk Pool refunds all claims in excess of £25,000.

Public Health Wales is assessed against the WRP Standard for Concerns and Compensation Claims Management.

In order to be reimbursed by the WRP, the Trust is required to submit a Claims Management Report (CMR) to WRP. The Chief Executive is responsible for signing this together with one other Executive Director. The Chief Executive has nominated the Deputy Chief Executive for the purposes of signing the CMR during periods of absence. This document identifies lessons learnt from claims which will be fed into the appropriate committees for monitoring and cascading throughout the organisation.

Any risks identified as a result of claims will be fed into the appropriate Risk Register.

The Legal Support Manager is the lead officer for the section of the standard relating to claims and is responsible for self-assessment against these standards.

Public Health Wales will comply with the various rules and procedures of the WRPS as set out under the [Welsh Risk Pool Reimbursement Procedure](#).

6 Delegated financial limits

Public Health Wales has formal delegated responsibility from the Welsh Government for the management and settlement of clinical negligence and personal injury claims valued under £1,000,000. Public Health Wales continues to exercise this discretion subject to satisfaction with the minimum requirements:

- That it adopts a clear policy for the handling of claims which satisfies the requirements of Section 8 of Putting things Right – Guidance (Section and title update pending) on dealing with concerns about the NHS and any subsequent agreed requirements from the Welsh Risk Pool Services;
- That these requirements form the basis of the procedure for the day to day management of claims;
- That the appropriate Welsh Risk Pool Services form is completed for every settlement authorised by Public Health Wales within the delegated limit and that Public Health Wales can demonstrate that remedial action has been taken.

6.1 Internal delegated limits

The levels of delegated authority within Public Health Wales are detailed in the table below.

For significant claims (over the Chief Executive's delegated limits) where settlement is advised, Public Health Wales Board will agree the range of value, which the Chief Executive or Board Secretary and Head of Board Business Unit/or Director of Nursing, Quality and Integrated Governance has discretion to negotiate. All settlements within the negotiated range will be reported to the next available meeting of Public Health Wales Board.

Admissions will be made in line with the best reserves at the time in accordance with the financial delegation. Financial payments will made in line with the delegation in the table set out below.

Approving individual losses and special payment claims in accordance with Welsh Government guidance:	Delegated authority
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Up to £2,000 (disbursements only)	Legal Support Manager
Up to £5,000	Quality, Safety and Putting Things Right Manager (title update pending)
Up to £30,000	Assistant Director of Nursing and Quality
Up to £100,000	Board Secretary and Head of Board Business Unit/Director of Quality, Nursing and Integrated Governance
Up to £500,000	Chief Executive
Up to £1 million	Board
Over £1 million	Welsh Government
<p>Notes: These limits relate to damages and/or costs payable</p>	

6.2 Chairperson's action

For claims in excess of £500,000, there may, occasionally, be circumstances where it is not practicable to call a meeting of the Board. In these circumstances, Chair's action may be taken in line with Public Health Wales Standing Orders. The Board Secretary must ensure that any such action is formally recorded and reported to the next meeting of the Board for consideration and ratification.

7 Reporting to the Quality, Safety and Improvement Committee

The Board has delegated responsibility to the Quality, Safety and Improvement Committee for issues relating to clinical negligence and personal injury. The Quality, Safety and Improvement Committee will provide assurance to the Board that lessons are learned from claims. The Executive Team receive quarterly claims reports. The Quality and Safety Committee is authorised to receive claims information and reports on behalf of Public Health Wales Board. The Committee is supported in the process by the Engagement & Experience Network.

The Executive Team will receive, review and recommend action as necessary on a quarterly progress report on the management and status of claims against Public Health Wales. This will be further scrutinised by the Quality and Safety Committee. The chair of the Quality and Safety Committee will provide an update at the following Board meeting of any significant issues. The minutes of the Quality & Safety Committee will be provided to the Board for information purposes.

Divisional Directors, members of the Executive Team and Managers will attend Committee meetings for claims which fall within their portfolio, to help determine any action necessary.

In addition, the Quality and Safety Committee and Audit Committee will receive an Annual Report and include information on:

- Public Health Wales' claims profile and claims management record
- Key issues and/or major developments affecting the Board
- Number of claims
- Aggregate value of claims in progress
- Details of any major claims
- Progress and likely outcome of ongoing claims including expected and settlement dates
- Value of claims settled and final outcomes
- Relevant trends
- Information regarding remedial action as appropriate

In the interim, the Board Secretary and Head of Board Business Unit/Chief Executive will ensure that the Board is kept informed of any significant and major developments through the preparation of a briefing note by the Legal Support Manager.

The Legal Support Manager will provide a quarterly report on the management and status of claims to relevant Leads and Finance Department which will include the quantum valuations of any claims.

The Legal Support Manager will provide such ad-hoc reports as required by services areas/programmes.

8 Claims management procedure

A claims management procedure has been developed which supports and embraces the objectives contained in this policy and Section 8 of the 'Putting Things Right' guidance (section and title update pending)

The claims management procedure and claims management standard operating procedure sets out the processes for the day to day practical management of claims and associated matters.

The Board has delegated authority for the approval of the Claims Management procedure, to the Executive Team which has delegated it to the Leadership Team has delegated authority for the approval of the claims management procedure.

9 Monitoring and auditing

Internal Audit will undertake a review of a sample of claims where reimbursement was sought from the Welsh Risk Pool Services (WRPS) on an annual basis to monitor compliance with the WRPS reimbursement rules.

The effectiveness of the policy will be reviewed on an annual basis by internal and external audit undertaken by the WRPS, in relation to claims management and the compliance with the WRPS reimbursement rules.

The Quality, Safety and Improvement Committee will monitor the claims performance through receipt of the WRPS Audit Performance report.

10 Training

Training on Claims Management is available to clinical and non clinical staff. This is also undertaken in line with the training on Putting Things Right and Duty of Candour processes.

11 Claims Reporting Framework

The flowchart found [here](#) sets out the claims reporting framework in Public Health Wales.



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Public Health
Wales

Reference Number: PHW16/TP01

Version Number: 5

Date of Next review: July

Claims Management Procedure

The aim of this procedure is to detail the way in which clinical negligence and personal injury claims should be managed in Public Health Wales and should be read in conjunction with the Claims Management Policy.

The Procedure does not apply to claims for reimbursement relating to damage to personal property, or claims under the Human Rights Act 1998 and employment issues.

Linked Policies, Procedures and Written Control Documents

Claims Management Policy

Putting Things Right Policy (title pending update)

Complaints Procedure

Incident Procedure

Redress Procedure

Risk Management Policy

Risk Management Procedure

NHS Indemnity and Insurance Policy (All Wales)

Scope

This procedure applies to all Public Health Wales staff, visitors, contractors, agency staff and volunteers and any reference to staff should be interpreted as including these groups.

It aims to promote openness and co-operation between parties in order to resolve claims as quickly as possible.

This procedure establishes the importance of the co-operation of staff and management in the investigation, response and review of claims, incidents and concerns.

The Incident, Complaints and Redress Procedures are closely aligned and as such there are many parallel activities between the two. The Procedure therefore indicates reference points within the Complaints or Redress Procedure for the reader to establish and trigger points or timescale requirements.

Equality and Health Impact Assessment	An Equality Health Impact Assessment form has been completed.
Approved by	Quality, Safety and Improvement Committee
Approval Date	
Review Date	20 July 2025
Date of Publication:	
Accountable Executive Director/Director	Paul Veysey, Board Secretary and Head of Board Business Unit
Author	Heidi Jones, Legal Support Manager
Author Lead	Jacqui Westmoreland, Quality, Safety and Putting Things Right Manager

Disclaimer

If the review date of this document has passed please ensure that the version you are using is the most up to date either by contacting the document author or the [PHW Board.Business@wales.nhs.uk](mailto:PHW_Board.Business@wales.nhs.uk)

Summary of reviews/amendments				
Version number	Date of Review	Date of Approval	Date published	Summary of Amendments
V1	20.11.15	21.03.13	21.03.16	New policy introduced to replace the Velindre NHS Trust Claims policy.
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V3	22.07.16	26.01.17		Reviewed to ensure compliance with the requirements of the Welsh Risk Pool Services. Additional information on lessons learned and links between claims, concerns, incidents and other risk information added to policy.
V4	10.06.22			Updated to reflect changes to management structure and Welsh Risk Pool arrangements and legislation updates.
V5	13.02.25			Reviewed to ensure compliance with requirements on reviewing Procedures. Updated to reflect changes to management positions and change of name of directorate.

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1. Introduction

This procedure underpins the approach set out in the Claims Management Policy. It aims to ensure that Public Health Wales operates an effective claims management system, which complies with the pre-action protocols laid down by the Civil Procedural Rules 1998.

Public Health Wales has a legal duty of care towards those it treats, together with members of the general public and its staff. People who consider they have suffered harm from a breach of this duty can make a claim for compensation and damages against Public Health Wales.

Public Health Wales will make every effort to negotiate and resolve claims wherever possible in order to avoid the need for court proceedings, which can be distressing for all involved.

The responsibility for the review and future approval of this procedure has been formally delegated by the Board in the Claims Management policy, to the Leadership Team (who has review and future approval for this procedure).

2. Aims and objectives

By establishing a clear process, this procedure aims to ensure that Public Health Wales deals with all compensation claims made against it proactively and in an equitable, efficient and timely manner.

It aims to promote openness and co-operation between parties in order to resolve claims as quickly as possible.

This procedure establishes the importance of the co-operation of staff and management in the investigation, response and review of claims, incidents, Redress and complaints.

Learning lessons from claims plays a key role in helping to improve the quality and safety of services provided along with creating a safer working environment. Learning from claims is essential part of an open and learning culture to try to prevent similar incidents occurring again. The information obtained from claims, concerns and incidents investigations will be triangulated to identify trends and patterns to facilitate learning and continuous improvement.

3. The Legal Test

For a claim to be successful, a claimant must prove:

- that he/she/ they was owed a duty of care;
- that the duty was breached;
- that the breach of duty caused, or materially contributed to the harm caused; and

- that there were consequences and effects of the harm.

If a claim is successful, then the injured person has a right to compensation for that harm, the amount of which is assessed in accordance with the principles of common law and statute.

4. Time Limits

The Limitation Act 1980 requires that personal injury or clinical negligence claims (claims) be made within three years of the date of the incident or three years from the date a claimant became aware that he/she/they had suffered from an episode of negligence.

For minors, the three-year limitation period becomes effective once they have reached the age of 18. However, there are no time limits for people with a disability who cannot manage their own affairs.

Claims exceeding the three-year limitation period may, however, still be brought against Public Health Wales at the discretion of the Court.

5. Claims Management Systems

Public Health Wales will manage all claims on the following management system: RLDatix Cymru(Datix)

All claims must be logged on the claims module within Datix

Public Health Wales' finance team maintains a database for recording payments made in settlement of clinical negligence and personal injury compensation claims and information relating to reimbursements received from the Welsh Risk Pool Service (RRPS).

All clinical negligence and personal injury claims will be entered onto both databases by an authorised member of staff. Other losses and special payment details will be similarly input onto the database.

Public Health Wales will ensure that patient and staff confidentiality is maintained.

6. Potential Claims

Every concern (incident or complaint) has the potential to become a claim. The quality of investigations undertaken by Public Health Wales under its Risk Management Strategy and Incident & Complaints procedure should ensure it is able to manage future litigation effectively.

There will always be some cases that pose a greater litigation risk than others. The Legal Support Manager must be notified of any cases which could potentially result in a claim via legalsupport.phw@wales.nhs.uk inbox and be provided with copies of the investigation. These cases should be appropriately reported on Datix as an incident or complaint. This will

ensure that all information is gathered at the earliest possible opportunity to enable Public Health Wales to effectively manage any future claim.

Public Health Wales' Risk Lead, Quality, Safety and Putting Things Right Manager and Legal Support Manager will liaise regularly to ensure the pro-active identification of potential claims and thorough and robust investigation of such incidents and complaints which have the potential to become claims.

All concerns (incidents, complaints and claims) are recorded on the organisation's Datix management system and linked as appropriate to facilitate the identification of potential claims and ensure a single seamless investigation.

The Legal Support Manager will formally open a new **Potential Claim** record on Datix upon receipt of one of the following:

- A request for Health Records, indicating that action for clinical negligence or personal injury is being contemplated against Public Health Wales, and it is deemed that there are grounds for potential legal action

7. Confirmed Claims

The Legal Support Manager will formally open a new **Confirmed Claim** record on Datix upon receipt of one of the following:

- A letter providing details of concerns raised in respect of clinical negligence or personal injury that can also be described as a 'Letter of Claim' (where the matter cannot be dealt with in line with the 'Putting things Right' legislation).
- A request for compensation to be paid arising out of an incident involving NHS staff or services.

7.1 Action upon setting up a confirmed claim

Upon receipt of a new claim the Legal Support Manager [will](#):

- Upload all correspondence & investigation evidence to the Datix record
- Link the claim with any other Datix record (i.e incident, complaint, inquest)
- Establish an objective account of the original incident
- Notify the relevant Divisional Director and any other relevant staff who may assist in the investigation of the claim.
- Notify the Chief Executive, Medical Director, Board Secretary and Head of Board Business Unit, Director of Nursing, Quality and Integrated Governance, and relevant Executive Director

- Where the claim involves occupational stress, bullying or harassment, the Director of People and Organisational Development must be notified.
- Request copies of any concerns file where applicable.
- Acknowledge the claim in writing
- Report the claim on the next quarterly report for submission to the Executive Team
- Contact relevant personnel for the release of clinical and personal records as appropriate
- Where appropriate, instruct relevant solicitors to act on behalf of Public Health Wales.

8. Instructing solicitors

Public Health Wales will use legal advisors in the defence or settlement of clinical negligence and personal injury claims.

For clin neg claims under the preexisting SLA with shared services PHW will instruct L&R services.

Public Health Wales will also instruct Legal and Risk Services, in the first instance, for advice in relation to defending or settling personal injury claims.

Public Health Wales has access to legal advice via the 'National Procurement Services – Legal Services by solicitor's framework.' In circumstances where legal and risk are not instructed.

Where external legal advice is sought, Public Health Wales will direct its solicitors in respect of liability admission, defence, settlement and general tactics. Public Health Wales will however, always take due account of qualified legal advice in making such decisions. Legal advice will cover:

- Qualifying Liability to include Breach of Duty and Causation;
- An assessment of the strength of the available defence and probability of success;
- The likely valuation of quantum of damages including best and worst case scenarios and
- The likely costs of defending the claim.

The final decision to settle a claim or to continue with its defence should be taken in accordance with the scheme of financial delegation based upon the reserve at the time.

In respect of Clinical Negligence Services, Legal and Risk Services do not invoice for this service, because of the manner in which they are funded by the NHS in Wales under the terms of the service level agreement.

During the course of any personal injury case Legal and Risk Services will submit an invoice for services carried out in respect of that claim. The invoices will be delivered to the Legal Support Manager and discharged in accordance with Public Health Wales' arrangements.

9. Legal Support Manager Delegated Authority

The Legal Support Manager has delegated authority to:

- The choice/identity of expert witnesses
- The choice /identity of barristers/counsel
- The choice/identity of costs draftsman
- Approve disbursement invoices up to the value of £2,000
- Acquisition of copy records from other parties when necessary
- Agree limitation extensions where necessary

This delegated authority will be taken following advice from Legal & Risk and in consultation with the Board Secretary where necessary.

10. Civil Procedural Rules and Pre-Action Protocols

The Civil Procedural Rules 1998 aim to ensure that all parties are on an equal footing and that legal proceedings are less expensive, proportionate and dealt with more quickly. Pre-action protocols were introduced as a part of this process. The aim of the pre-action protocol is to attempt to negotiate a settlement, without the need for legal proceedings.

Pre-action Protocols outline the steps and time that parties should take to seek information from, and provide information to each other before resorting to Court proceedings. Settlement is encouraged by promoting openness between parties and co-operation in the process of obtaining the evidence necessary to determine liability and value the claim.

Public Health Wales acknowledges the importance of adhering to the pre action protocol and will aim to complete investigations and make a formal determination on issues relating to liability with regard to personal injury and clinical negligence claims within the protocols time period.

10.1 Pre-action protocols deadlines

The flowchart found [here](#) sets out Public Health Wales' key obligations under the Pre-Action Protocols for the Resolution of Clinical Disputes and the Pre-Action Protocol for Personal Injury claims.

Public Health Wales acknowledges the importance of adhering to the time limits. The earlier and timely exchange of information informs the pre action

investigation and assists Public Health Wales to settle appropriate claims quickly and without the need for court proceedings.

Where court proceedings are nevertheless issued and Public Health Wales has a defence to the proceedings, compliance with the protocol will put Public Health Wales in a better position to manage the subsequent proceedings.

10.2 Complying with the pre-action protocol

Compliance with the protocol is a legal requirement. Failure to co-operate may lead to unnecessary litigation and cost penalties imposed by the Court. Not only can this cost Public Health Wales money in wasted costs, but evidentially where documents have not been disclosed this can prevent Public Health Wales from effectively defending claims.

It is the intention that the steps set out below become the normal and reasonable response to claims. Where a party does not follow the protocol and proceedings are subsequently issued, the Court will take into account the fact that the protocol has not been followed which may have adverse cost consequences.

(i) Letter of notification

In some cases, the Claimant or the Claimant's representative may notify Public Health Wales when they know a claim is likely to be made, but before they are able to send a detailed letter of claim. Public Health Wales must acknowledge this letter within **14 days**. If a letter of notification is received this will not start the timetable for providing a letter of response. If a letter is received in Welsh, Public Health Wales will acknowledge the letter in Welsh and will ensure that all subsequent correspondence is provided in Welsh. Public Health Wales will establish language preference at this initial point of contact.

(ii) Letter of Claim

Once a letter of claim has been received, Public Health Wales is required to acknowledge this within **21 days** of its receipt failing which the Claimant is entitled to commence legal proceedings.

All claims should be initiated by a letter of claim sent by the Claimant to the Defendant. This letter should include sufficient information to enable Public Health Wales to determine when, where and how the Claimant's accident occurred together with a summary of the injuries sustained by the Claimant.

In order to successfully claim compensation, the Claimant must prove that the accident and injuries were caused by the negligence and/or breach of duty of Public Health Wales. The Claimant has to show that somebody was legally at fault and the perceived reasons for this are set out in the Letter of

Claim usually as “allegations of negligence and/or breaches of statutory duty”.

The letter of claim should also give an indication of any financial loss or expense incurred and continuing as a result of the accident.

(iii) Investigation

Once Public Health Wales has acknowledged the letter of claim, it has three months to investigate liability in personal injury claims and four months to investigate clinical negligence claims and to respond to the Claimant’s solicitors, disclosing all relevant documentation.

Public Health Wales will use the Pre-action Protocol period to ensure that every effort is made to discuss and negotiate resolution and settlement of claims prior to court proceedings, following a thorough investigation and determination of the liability issues on the basis of expert advice received. Where necessary, Public Health Wales will enter in face to face or mediation type meeting with the Claimant and/or the Claimant’s solicitors to facilitate such negotiated resolution. This may require the involvement of a translator if the claimant and/or their representative wish to speak Welsh in any meetings to discuss the claim. Confidentiality must be made clear to the translator.

10.3 Disclosure

10.3.1 Internal Disclosure

On receipt of a claim for Clinical Negligence or Personal Injury, the Legal Support Manager will write to the relevant lead in Public Health Wales to relay the request for information as quickly as possible, once a Form of Authority (consent form) has been received.

Where the claim is received directly by a department, the department must notify the Legal Support Manager as soon as reasonably possible via legalsupport.phw@wales.nhs.uk inbox and provide a copy of all records disclosed to the service user/representative.

The Legal Support Manager is also required to be notified when records have been released and there is a suggestion within correspondence received that there may be a potential claim against Public Health Wales.

Where a claim is made by an employee of Public Health Wales, Public Health Wales is legally obliged to disclose earnings information within the period of time stipulated by the Pre-Action Protocol for Personal Injury Claims. The Legal Support Manager will request earnings details via the People and Organisational Department for the 13 week period prior to the accident date and thereafter together with details of wages paid whilst on sick leave as a result of the accident and details of any increments or overtime which may have been paid in that post accident period. The Legal Support Manager may also be required to obtain release of other records such as personal or

occupational health records where an appropriate Form of Authority requesting release of the records has been provided.

10.3.2 Disclosure to Third Parties

Public Health Wales will ensure that appropriately documented claims for disclosure of health records and other appropriate records will be made in accordance with the requirements contained under the General Data Protection Regulation 2018, the Data Protection Act 1998 and the Access to Health Records Act 1990. Public Health Wales will ensure wherever possible adherence to the 40 day time limit for the disclosure of records.

10.3.3 Response and disclosure of documents

Following the investigation, Public Health Wales must respond to the Claimant's Solicitors within relevant time frames as set out by the relevant Pre-action protocols. In this response Public Health Wales, in conjunction with Legal and Risk Services, must state whether or not it accepts that it was at fault either in whole or part. Where liability is accepted, the parties can turn their attention to valuing the claim.

The Pre-Action Protocols sets out standard disclosure lists which can be found [here](#).

Public Health Wales is obliged to disclose all relevant documentation, failing that Public Health Wales is required to provide a detailed explanation as to why it cannot be provided.

If liability it is not accepted, Public Health Wales, in conjunction with Legal and Risk Services, must provide the Claimant with a detailed explanation for this denial. It must enclose, with the letter of reply, all the documents which are relevant to the issues in dispute which support the case and also any which may in fact hinder the case.

This is to enable the Claimant's Solicitor to consider Public Health Wales response and documentation in order to determine whether or not to pursue the case. If they feel that the case may still be successful, then Court proceedings may be commenced.

In some cases Public Health Wales accepts some of the blame but also feels that the Claimant is partially to blame for the incident and the injuries suffered. In such circumstances, Public Health Wales, in conjunction with Legal and Risk Services, will have to give a full explanation as to why it considers the Claimant to be partly to blame and must again also provide any documents relevant to this decision.

10.4 Failure to comply with the Pre Action Protocol

Compliance with the protocol is a legal requirement and its importance cannot be understated. Failure to co-operate may lead to the following sanctions:

- Public Health Wales can be penalised in awards of costs and interest especially if non-compliance with the protocol has led to the commencement of proceedings which might ordinarily have been avoided or costs incurred unnecessarily.
- The Claimant may issue an application for pre-action disclosure of documentation. Such applications can routinely cost between £500 and £1,000 in wasted costs. If the Order is breached and there is a failure to provide the documentation, Public Health Wales can then not rely upon that documentation if it is subsequently found.
- The Court may order Public Health Wales to pay money into Court if it has without good reason failed to comply with the Pre-Action Protocol. The monies paid into Court will act as a security for any damages subsequently found to be payable within the proceedings including costs.
- Further in such cases the Court can order the party in default of the Protocol to pay the other party's costs on an indemnity basis. This means a full recovery of all legal and other costs at a higher level than usually payable.

11 Low value personal injury claims received via the claims portal

The Pre-action Protocol for low value personal injury claims was introduced as part of a series of civil justice reforms to make the claims process more efficient.

The Protocol requires low value personal injury claims (claims with estimated damages of between £1,000 and £25,000) to be submitted and managed via an electronic 'claims portal'. The Protocol imposes strict deadlines which must be adhered to in order to 'keep' the claim in the portal.

There are many benefits to both the Claimant and Defendant in managing the claim in the Portal. Claims can be resolved quickly and associated costs are fixed, which can result in substantial costs savings for the Defendant.

The timescales set out in the Pre-action Protocol for low value personal injury claims are detailed [here](#).

Failure to adhere to any of the timescales will result in the claim leaving the portal. If this occurs then the Pre-action Protocol for personal injury claims will apply and the organisation will not be able to benefit from any of the fixed costs.

The Legal Support Manager is responsible for checking the organisations Claims Portal on a daily basis.

12 Liability Decisions

A decision on liability can be made at any time during the course of a claim depending upon the outcome of the investigations undertaken. The Legal Support Manager will make every possible effort to negotiate settlement of cases prior to the issue of legal proceedings but it is the objective of Public Health Wales to make responsible and reasonable decisions on liability at the earliest possible stage of the claims dependant on the expert and legal advice given.

Denial: where it is recommended that a denial of liability is made in respect of a claim, advice will be provided to the relevant Divisional Director and the Board Secretary and Head of Board Business Unit as appropriate.

Admissions where the advice is to make an admission of liability:

The Legal Support Manager will consult the relevant Divisional Director and other appropriate personnel involved in the case to ensure that they have an opportunity to comment on the proposed course of action. The Legal Support Manager will also seek ratification in line with the financial scheme of delegation.

Alternative dispute resolution: at any state of the claim, consideration can be given to whether any appropriate method of alternative dispute resolution such as mediation Joint Settlement Meeting (JSM) can be employed to resolve the claim. Any such case that the Legal Support Manager deems is appropriate, will be discussed with the Board Secretary and Head of Board Business Unit.

13 Escalation process

In the event that the Legal Support Manager experiences delays in obtaining a prompt or satisfactory response to a request for information, assistance or documentation, the matter will be referred to Board Secretary and Head of Board Business Unit, being the Lead Executive with responsibility for claims, for input and action.

It is the responsibility of the Legal Support Manager, on the individual circumstances of each case, to determine what constitutes a reasonable timescale for or which comprises, a satisfactory response and to advise the Board Secretary and Head of Board Business Unit accordingly.

The Legal Support Manager will agree with the Board Secretary and Head of Board Business Unit on an appropriate course of action and timescales for action.

In the event of non-compliance, the matter will be referred to the Chief Executive for input and action. The Legal Support Manager and Board Secretary and Head of Board Business Unit in conjunction with the Chief Executive will agree an appropriate course of action and timescales for action.

14 Litigants in person

Public Health Wales acknowledges that claims management systems should embrace and allow for more pre action contact with Claimants.

To facilitate this and also to support the spirit and intention of the NHS (Concerns, Complaints and Redress Arrangement) (Wales Regulations 2010), the Legal Support Manager should be notified immediately via legalsupport.phw@wales.nhs.uk_inbox of any reported incidents or complaints which could potentially result in a claim or redress.

Such potential claims which are identified from incidents or complaints or where a claimant does not have solicitors acting and is acting effectively as a litigant in person, will be managed and investigated in accordance with this procedure in compliance with the NHS (Concerns, Complaints and Redress Arrangement) (Wales) Regulations 2010.

As such, where a claimant does not have a solicitor acting and acts as a litigant in person, every effort will be made to liaise with the litigant in person and enter into dialogue with them including face to face discussions where appropriate regarding the claim.

15 Court proceedings

Where proceedings are issued and served on Public Health Wales, the Legal Support Manager will liaise with Legal and Risk Services to ensure that the Acknowledgment of Service Form is filed at the court within **14** days of being served with the proceedings. Following service of the Claim Form, Public Health Wales has a strict deadline of **28** days in which to provide its defence or to obtain an extension of time thereto.

The Legal Support Manager in conjunction with Legal and Risk Services will ensure that Court proceedings run efficiently and to time table throughout the duration of the claim.

Where a claim is also the subject matter of a concern, Public Health Wales will continue with the complaints investigation and response until such time as court proceedings are formally served upon Public Health Wales. Pending such action, the Legal Support Manager and the Quality, Safety and Putting Things Right Manager (title update pending) will work together to ensure that appropriate investigations and responses are undertaken.

16 Assessment of Quantum and Settlement

Assessment and settlement of damages may occur at the same time as an admission of liability, but more usually follow at a later date when further evidence in relation to medical condition and prognosis have been gathered and/or schedules of special damages have been served on each party.

Quantum will be assessed using the Judicial College Guidelines and relevant case law obtained from Lawtel and in appropriate cases, Public

Health Wales, may seek independent expert evidence from a variety of disciplines to assist in valuing the damages claimed including Counsel.

Negotiation of Quantum with Litigants-in-person: In such cases, the Legal Support Manager will provide the litigant-in-person with a breakdown showing how the quantum has been calculated. This will include a special damages calculation based upon the information provided by the litigant-in-person and evidence to support the calculation of general damages including copy documentation in support which may include:-

- Judicial College Guidelines
- Case Law

In the event that the offer is not acceptable to the litigant-in-person, the Legal Support Manager will offer to instruct an independent barrister to value quantum on the basis of the above and other relevant information. Public Health Wales agrees to abide by the decision of the barrister.

To show impartiality, Public Health Wales will provide a list of Counsel specialising in the relevant subject area, drawn from Chambers which are not used by Public Health Wales. The list can be supported with the Curriculum Vitae of each barrister and a copy of the instructions should be provided to the litigant-in person for consideration and agreement.

The choice of Barrister will be made by the litigant-in-person and Public Health Wales agrees to abide by the decision of the nominated barrister.

17 Delegated limits for the settlement of Claims

The delegated limits within Public Health Wales are in accordance with Public Health Wales' standing financial instructions and scheme of delegation can be found [here](#).

18 Learning lessons from claims

It is important that Public Health Wales makes constructive use of information which arises from clinical negligence and personal injury claims and that any remedial action is taken where appropriate to prevent or minimise the risk of further reoccurrence.

It is important to note that Public Health Wales recognises the need for close connections between complaints, incidents, claims, Redress and other risk related information. It appreciates the need for close and co-operative working between these functions and will ensure that appropriate linkages are in place to facilitate this objective. The Putting Things Right Team will also work closely with quality & improvement colleagues to maximize opportunities to identify trends and learning opportunities.

Lessons learned will be identified as part of the investigation process. The relevant Divisional Director has responsibility for liaising with appropriate staff and for ensuring that any identified and agreed actions are

implemented, monitored and evaluated in order to improve the services provided and seek to avoid such errors recurring.

In order to reduce risks every claim will be closely reviewed, with the cooperation of the responsible Divisional Director and other Heads of Service as appropriate to identify the failures in the systems, which led to the claim. Educational sessions are encouraged for Divisions to highlight claims in their areas to understand the missed opportunities that led to the claim to help prevent recurrence.

A root cause analysis (RCA) investigation may be undertaken to identify care and service delivery problems and latent factors, which led to the circumstances of the claim, ensuring that remedial action is identified and taken.

Lessons learnt from every claim will inform the Learning From Events Report (LFER) which includes issues identified and actions taken and what learning assurance plans are in place to prevent recurrence. The LFER is submitted to Welsh Risk Pool Services (WRPS), so that reimbursement may be released from WRPS as the indemnifier.

The Legal Support Manager will produce a Learning from Events Report with support from the relevant Divisional Lead. They will put arrangements in place for an associated Action Plan for all claims and produce a Case Management Report for claims exceeding the Health Board's excess of £25,000. This will be used as the basis for learning, monitoring and evaluating the efficacy of the lessons learned from claims together with the necessary data entry into Datix.

All Learning from Events Reports will be taken to a Quality Assurance panel for approval prior to sign off and submission to Welsh Risk Pool.

The Legal Support manager will follow the Learning from Events flow chart to ensure timely submission of the Learning from Events report. Flow chart can be found [here](#).

19 Risk Management

Risks identified during the management of the claim or as part of the 'Learning from Events' process should be identified and recorded on Public Health Wales' risk management system, DATIX Web.

Once a risk is identified it must be analysed, assessed and evaluated. An individual must be assigned (Risk Owner) to review the risk and ensure that there are adequate controls in place to manage and monitor the risk.

The Risk Owner must ensure that the risk is placed on the appropriate risk register, according to its severity and impact, in line with Public Health Wales' risk management procedure.

In the context of claims, some risks will be assigned to the area in which the claim originated, but if a risk has implications for the whole organisation or is a significant risk (risk that threatens the organisations success/reputation), and then these should be managed by the Executive Director with the portfolio for the specific subject area.

The Legal Support Manager must be notified of any risks placed on the risk register by the divisions/service areas etc which relate to claims, so that the risk can be cross referenced to the claim.

If the Legal Support Manager identifies any risks during the management of the claim, they must notify the relevant area/division so that the risk can be appropriately recorded and managed.

As part of the accountability process Executive Directors, Divisional Directors and Managers must maintain a risk register for their areas of responsibility.

Progress against the implementation of the risk action plan should be regularly monitored by the appropriate management group / committee.

20 Reimbursement from Welsh Risk Pool Services (WRPS)

All clinical negligence and personal injury claims are subject to a reclaim by Public Health Wales from the WRPS, via the submission of a Learning From Events Report to WRPS ([here](#)). All submissions must be made within the agreed timescales set by WRPS.

From 1 September 2023 the Welsh Risk Pool changed the claims reimbursement procedure. the trigger is now from when Public Health Wales makes a decision to settle a case (i.e Admission made by PHW, Offer to settle made by PHW, Offer to settle accepted by PHW, Damages awarded at Trial) and PHW has 4 months from the decision to settle a case, to submit a Learning from Events Report to the Welsh Risk Pool. PHW is required to submit, electronically via NWSSP WRPS Claims & Reimbursement email, a Learning from Events Report and a U1 form. The Learning from Events Report needs to be approved by the Welsh Risk Pool in order to obtain financial reimbursement.

PHW has a period of four calendar months from the final financial payment on the case to request reimbursement from the Welsh Risk Pool. In order to be reimbursed by the Welsh Risk Pool, PHW is required to submit, electronically via NWSSP WRPS Claims & Reimbursement e-mail, U1 form, Costs Schedule, Case Management Report and approved Learning from Events Report in accordance with the Welsh Risk Pool Services Claims Reimbursement Procedure.

Public Health Wales acknowledges that reimbursement can be refused, delayed or withheld by the Welsh Risk Pool if the Trust has failed:

- To meet with the relevant minimum standard issued by the Welsh Risk Pool
- To comply with the requirements of the procedures for submitting claims for reimbursement
- To comply with the various technical and briefing notes published by the Welsh Risk Pool.

For claims which are settled below £25,000, PHW will complete a Learning from Event Report (LFER) which will give details of the claim and lessons learned.

The Welsh Risk Pool Services Case Reimbursement [Procedure](#) outlines how the WRPS will carry out reimbursement processes and establishes the reimbursement scheme rules for member health bodies. All staff must cooperate with the requirements within this procedure and provide Governance declarations as appropriate.

21 Support for staff involved in claims

Public Health Wales will ensure that members of staff who are involved in a claim will be supported through the entire process.

Initially the individual's Line Manager will provide support and the Legal Support Manager will provide such support and assistance to members of staff involved in litigation as appropriate.

Support will be made available immediately from the following as appropriate:

- Board Secretary and Head of Board Business Unit
- Occupational Health Service
- Human Resources Team

Professional legal advice will be made available from Legal and Risk Services for those members of staff involved as appropriate if the claim proceeds.

External sources of support may also be provided from the following where appropriate:

- Medical Defence Union
- Medical Protection Society
- Professional Regulatory Bodies
- Staff Union Organisations
- National Clinical Assessment Services (NCAS)

Trade Union and elected Staff representatives may also provide support if felt appropriate by the member of staff.

This will be determined on an individual basis dependent upon the requirements of each individual and can include staff meeting with the Legal Support Manager to discuss the claims process, visits to working courts, attending moots (mock trials) and the provision of training on how to give evidence in court.

22 Reporting procedures

22.1 External reporting to Welsh Government

The Legal Support Manager will ensure that any claims with damages estimated to exceed Public Health Wales' delegated authority of £1 million are escalated to the Chief Executive & Board.

The Legal Support Manager will also follow the procedures set out in the Welsh Risk Pool Services Reimbursement Procedure and ensure any cases which exceed or may exceed the delegated authority limit of £1 million are identified on the Learning from Events Report checklist.

This procedure has been established for organisations to seek approval of Welsh Government in relation to the proposed settlement. This procedure requires that Welsh Government is satisfied in relation to the steps taken by organisations to reduce the potential for reoccurrence or to mitigate the impact of any future steps.

In addition, the Legal Support Manager will monitor the nature and type of claims received to ensure that any claims which are novel, contentious or repercussive are reported in advance of settlement to the Welsh Government and any required approvals are obtained at relevant stages.

These may include claims, involving unusual and/or new features which if not correctly handled might set an unfortunate precedent for other NHS litigation or which appears to represent test cases for potential claims actions or cases which although not formally part of a class action appear to be very similar in kind to concurrent claims against other NHS bodies. In such cases, the Legal Support Manager will contact the Welsh Government for advice regarding management.

22.2 Welsh Risk Pool Service (WRPS) claims review process

The WRPS is required to identify a minimum number of 30 claims for reimbursement made on the WRPS for review within a financial year. The purpose of the review is to consider the manner in which the claim was handled by the organisation, whether lessons were learned and practices made safer with the primary purpose of identifying good practice in the management of claims for the benefit of all NHS organisations. The review may take the format of either a:

Follow up Review by WRP Learning Advisory Panel: a follow up recommendation is made when there are particular issues around implementation of remedial action that the WRP Learning Advisory Panel wishes to be clarified. This means that a case can be submitted for reimbursement but it can be deferred until the scrutiny of lessons learned is concluded. The follow up will consider the action taken by Public Health Wales in respect of the outstanding item. It may as a consequence focus upon the remedial action and monitoring set out in the Learning from Events form but which was not formally in place at the time of the submission of the claims to WRPS.

Claims Review: this review has a significantly wider scope than the follow up review process. The Learning Advisory Panel having considered the claim have formed the view that there are aspects of the claim that would benefit from further review. It is likely to involve a detailed review of the circumstances and background to the claim with an analysis of remedial action and monitoring defined within the LFER and Case Management report. In addition, it may be used to identify good practice which can usefully be disseminated across all NHS organisations in Wales. If there are residual uncertainties that prevent a recommendation to approve the claim being made, a review can then be taken in respect of the aspect of the claims giving rise to any queries.

22.3 Initial arrangements

Where the WRPS wishes to undertake a claims review, a letter will be sent to the Chief Executive and copied to the Legal Support Manager. The letter will contain:

- A request for information and documentation pertinent to that previously contained within the Learning from Events Report at the time of the original submission of the claim
- An indication of whether the request is for a **Follow Up Review** or a **Claims Review**
- It will identify whether the WRPS Assessor is intending to undertake a site visit or a remote review.

Public Health Wales **must** acknowledge receipt of the request within 14 days advising the WRPS Assessor who will be the nominated point of contact for the effective operation of the review.

The Legal Support Manager or nominated contact will then proceed to collate or delegate responsibility for the collation of the documentation and information requested by the WRPS Assessor.

The documentation and information requested should be forwarded to the WRPS Assessor within 1 calendar month of the date of the request. Where this cannot be achieved, the Claims Manager will contact the WRPS Assessor to agree a timescale for the provision of the information and documentation.

The WRPS Assessor will contact the Legal Support Manager or nominated contact to arrange a mutually convenient date and identify any staff who will be interviewed.

22.4 Site visits

In preparation for a site visit, the Legal Support Manager or nominated contact should:

- Organise a location suitable for the Assessor and any interviewees for the conduct of the review
- Ensure all and any documentation required that has been previously communicated is available. This may include the claims file, patient records, policies, procedures/care pathways, and or audit.
- Ensure that all required interviewees are available for the period of the claims review and can be contacted and released for interview. The Legal Support Manager should be available to co-ordinate information provision and interviewees.

The Legal Support Manager will be responsible for the safe return of all documentation to its rightful source.

22.5 Reports

The Assessor will draft the report and send a copy to the Legal Support Manager for dissemination and comment to appropriate personnel, at Public Health Wales' discretion. Any comments or discussion points or requests to amend the report should be forwarded to the WRPS within 1 calendar month of the date of receipt of the report. In the absence of any comment within this time scale, the WRPS will assume that there are no comments and will issue the report as final.

Following issue of the final report to Chief Executive and Legal Support Manager, the content is abridged and anonymised by WRPS and reported to WRPS Advisory Board. The Advisory Board will either accept the report with no further action or request a follow up in cases further action is identified.

23 Monitoring and auditing

In order to comply with the requirement of the WRPS Claims Management Standard, Public Health Wales' Internal Audit Service will, undertake an annual audit of 25% or 25 of all claims (whichever is the fewer number) which have been through the WRPS Reimbursement Process.

This will ascertain the accuracy of reports, costs, compensation claims and further ascertain that claims/refunds and dealt with in accordance with the Welsh Risk Pool Reimbursement Scheme.

24 Information governance statement

This policy has the potential to deal with extremely sensitive information and Public Health Wales staff involved in any claim need to be fully aware of the material they are handling. The preferred method of information exchange should be via secure email which is password protected. Royal Mail can however be used in exceptional circumstances

Any materials/documents that form part of the claim should be transported in a secure manner to ensure maintenance of confidentiality and minimise risk of loss and the following security measures should be followed:

1. Documents should be sent by recorded delivery post with double enveloped contents.
2. Documentation for the claim should be viewed on a "**need to know basis**"
3. All documents should be stored in the appropriate secured storage facilities and destroyed confidentially in accordance with Public Health Wales retention and destruction guidelines
4. Use of e-mail to transmit documentation relating to a claim is preferred on the provision that emails attaching confidential information are password protected.
5. Information and passwords must be sent in separate emails
6. With all email systems the **sender must however check that the recipient is correctly addressed.**
7. Emails can be used to arrange meetings, although careful wording of the appointment and who can see the calendar must be considered.
8. As appropriate, emails should be marked as Private & Confidential

25 Appendix - Links

Please find below, helpful links to various resources to support this procedure.

Resource Title	Externally available	Internally available
Pre-Actin Protocol Flow Chart		☐
Pre-Action Protocol Standard Disclosure Lists		☐
Timescales for managing low value claims via portal		☐
Delegated Limits for the Settlement of Claims		☐
Welsh Risk Pool Claims Reimbursement Procedure	☐	
Learning from Events Flow Chart		☐
LFER's Guide to Completion	☐	
Post Letter of Claim Flow Chart		☐

Equality & Health Impact Assessment for Claims Policy and Claims Management Procedure

Part 1

Please answer all questions:-

1.	For service change, provide the title of the Project Outline Document or Business Case and Reference Number	Public Health Wales Claims Policy and Claims Management Procedure
2.	Name of Clinical Board / Corporate Directorate and title of lead member of staff, including contact details	Nursing, Quality and Integrated Governance Heidi Jones Heidi.Jones10@wales.nhs.uk
3.	Objectives of strategy/ policy/ plan/ procedure/ service	The policy will provide clear guidance in regards the management of claims made against Public Health Wales and to provide single point of contact to support staff involved in such claims.
4.	Evidence and background information considered. For example <ul style="list-style-type: none"> • population data • staff and service users data, as applicable • needs assessment • engagement and involvement findings • research • good practice guidelines • participant knowledge 	A policy and procedure is required for when a claim is brought against Public Health Wales either by member of staff or by a service user of programmes provided by Public Health Wales.

	<ul style="list-style-type: none"> • list of stakeholders and how stakeholders have engaged in the development stages • comments from those involved in the designing and development stages <p>Population pyramids are available from Public Health Wales Observatory and the 'Shaping Our Future Wellbeing' Strategy provides an overview of health need.</p>	
<p>5.</p>	<p>Who will be affected by the strategy/ policy/ plan/ procedure/ service</p> <p>Consider staff as well as the population that the project/change may affect to different degrees.</p>	<p>The policy and procedure applies to all staff, service users and visitors.</p>

Part 2- Equality and Welsh language

6. EQIA / How will the strategy, policy, plan, procedure and/or service impact on people?

Questions in this section relate to the impact on people on the basis of their 'protected characteristics'.

How will the strategy, policy, plan, procedure and/or service impact on:-	Potential positive and/or negative impacts (unintended consequences) Opportunities or gaps	Action taken by Directorate. Make reference to where the mitigation is included in the document, as appropriate This column is to be updated in future reviews	Recommendations for improvement/ mitigation/ identified gaps or opportunities
6.1 Age For most purposes, the main categories are: <ul style="list-style-type: none"> • under 18; • between 18 and 65; and • over 65 	The policy applies to all Public Health Wales staff, regardless of age. There is no evidence to suggest the policy has a disproportionate impact on people in relation to their age.		
6.2 Persons with a disability as defined in the Equality Act 2010	The policy takes into consideration colleagues with a disability as defined in the Equality Act 2010.	There is no evidence to suggest the policy has a disproportionate impact	

How will the strategy, policy, plan, procedure and/or service impact on:-	Potential positive and/or negative impacts (unintended consequences) Opportunities or gaps	Action taken by Directorate. Make reference to where the mitigation is included in the document, as appropriate This column is to be updated in future reviews	Recommendations for improvement/ mitigation/ identified gaps or opportunities
Those with physical impairments, learning disability, sensory loss or impairment, mental health conditions, long-term medical conditions such as diabetes		on people in relation to disability.	
6.3 People of different genders: Consider men, women, people undergoing gender reassignment NB Gender-reassignment is anyone who proposes to, starts, is going through or who has completed a process to change his or her gender with or without going through any medical procedures. Sometimes referred to as Trans or Transgender	The policy applies to all Public Health Wales staff, regardless of gender. There is no evidence to suggest the policy has a disproportionate impact on people in relation to their gender.		

How will the strategy, policy, plan, procedure and/or service impact on:-	Potential positive and/or negative impacts (unintended consequences) Opportunities or gaps	Action taken by Directorate. Make reference to where the mitigation is included in the document, as appropriate This column is to be updated in future reviews	Recommendations for improvement/ mitigation/ identified gaps or opportunities
6.4 People who are married or who have a civil partner.	<p>The policy applies to all Public Health Wales staff, regardless of marriage or civil partnership.</p> <p>There is no evidence to suggest the policy has a disproportionate impact on people in relation to their marriage or civil partnership.</p>		
6.5 Women who are expecting a baby, who are on a break from work after having a baby, or who are breastfeeding.	<p>The policy applies to all Public Health Wales staff, including colleagues who are expecting a baby, those who are on a break from work after having a</p>		

How will the strategy, policy, plan, procedure and/or service impact on:-	Potential positive and/or negative impacts (unintended consequences) Opportunities or gaps	Action taken by Directorate. Make reference to where the mitigation is included in the document, as appropriate This column is to be updated in future reviews	Recommendations for improvement/ mitigation/ identified gaps or opportunities
	<p>baby, or who are breastfeeding.</p> <p>There is no evidence to suggest the policy has a disproportionate impact on people in relation to colleagues who are expecting a baby, who are on a break from work after having a baby, or who are breastfeeding.</p>		
6.6 People of a different race, nationality, colour, culture or ethnic origin including non-English speakers, gypsies/travellers, migrant workers	<p>The policy applies to all Public Health Wales staff, regardless of race, nationality, culture etc.</p> <p>There is no evidence to suggest the policy has a disproportionate impact on people in relation to their</p>		

How will the strategy, policy, plan, procedure and/or service impact on:-	Potential positive and/or negative impacts (unintended consequences) Opportunities or gaps	Action taken by Directorate. Make reference to where the mitigation is included in the document, as appropriate This column is to be updated in future reviews	Recommendations for improvement/ mitigation/ identified gaps or opportunities
	race, nationality, culture etc.		
6.7 People with a religion or belief or with no religion or belief. The term 'religion' includes a religious or philosophical belief	The policy applies to all Public Health Wales staff, regardless of belief. There is no evidence to suggest the policy has a disproportionate impact on people in relation to their belief.		
6.8 People who are attracted to other people of: <ul style="list-style-type: none"> • the opposite sex (heterosexual); • the same sex (lesbian or gay); • both sexes (bisexual) 	The policy applies to all Public Health Wales staff, regardless of sexual orientation. There is no evidence to suggest the policy has a disproportionate impact on people in relation to their sexual orientation.		

How will the strategy, policy, plan, procedure and/or service impact on:-	Potential positive and/or negative impacts (unintended consequences) Opportunities or gaps	Action taken by Directorate. Make reference to where the mitigation is included in the document, as appropriate This column is to be updated in future reviews	Recommendations for improvement/ mitigation/ identified gaps or opportunities
6.9 People according to their income related group: Consider people on low income, economically inactive, unemployed/workless, people who are unable to work due to ill-health	<p>The policy applies to all Public Health Wales staff, regardless of level of income.</p> <p>There is no evidence to suggest the policy has a disproportionate impact on people in relation to their level of income.</p>		
6.10 People according to where they live: Consider people living in areas known to exhibit poor economic and/or health indicators, people unable to access services and facilities	<p><i>There is no evidence to suggest the policy has a disproportionate impact on people according to where they live.</i></p> <p><i>The policy takes into consideration colleagues who are located in more rural areas.</i></p>	<p>We recognise that public transport and active travel provision isn't equal across all areas of Wales and in particular rural areas, which means that sustainable travel can be more challenging in these areas. Other options such as car sharing may be more appropriate.</p>	

How will the strategy, policy, plan, procedure and/or service impact on:-	Potential positive and/or negative impacts (unintended consequences) Opportunities or gaps	Action taken by Directorate. Make reference to where the mitigation is included in the document, as appropriate This column is to be updated in future reviews	Recommendations for improvement/ mitigation/ identified gaps or opportunities
6.11 Consider any other groups and risk factors relevant to this strategy, policy, plan, procedure and/or service	There is no evidence to suggest the policy has a disproportionate impact on any other groups.		
6.12 Welsh Language			
There are 2 key considerations to be made during the development of a policy, project, programme, service to ensure there are no adverse effects and/or a positive or increased positive effect on: (please note these will continue to be reviewed to ensure Public Health Wales fulfils their duties to comply with one or more standards outlined within the Welsh Language Standards (No 7) Regulations 2018)			
Opportunities for persons to use the Welsh language	No positive or negative impact.	Policy will be available in Welsh	
Treating the Welsh language no less favourably than the English language	No positive or negative impact.	Policy will be available in Welsh	

Part 3 – Health

Questions in this section relate to the impact on the health and wellbeing outcomes of the population **and** specific population groups who could be more impacted than others by a policy/project/proposal.

The part of the assessment identifies;

- which specific groups in the population could be impacted more (inequalities)
- what those potential impacts could be across the wider determinants of health framework?
- Potential gaps, opportunities to maximise positive H&WB outcomes
- Recommendations/mitigation to be considered by the decision makers

7. Identification of specific population groups

Use the WHIASU Population Groups checklist as a reference to identify the population groups who could be more impacted than others by a policy/project/proposal. The check list can be found on the PHW Integrated EqHIA guidance pages (requires link to PHW Intranet pages for additional information and resources)

The groups listed have been identified as more susceptible to poorer health and wellbeing outcomes (health inequalities) and therefore it is important to consider them in a HIA assessment. In a HIA, the groups identified, as more sensitive to potential impacts will depend on the characteristics of the local population, the context, and the nature of the proposal itself.

7.1 Groups identified	Rational/explanation

Assessment

Complete the wider determinants framework table below providing rational/evidence where appropriate:

1. Consider how the proposal could impact on the population and specific population groups identified above (positive/negative) for each of the wider determinants (the bullets under each determinant are there as a guide)
2. Record any unintended consequences (negative impacts) and/or gaps identified

3. Record any positive impacts or missed opportunities to maximise positive health and wellbeing outcomes

4. identify and record mitigation/recommendations where appropriate

Please note you may find that not all determinants are relevant to the project/plan however recording N/A is not acceptable a rational or evidence should be explained/referenced

Wider determinant for consideration	Positive impacts or additional opportunities	Unintended consequences or gaps	Population groups affected	Mitigation/recommendations
<p>7.2 Lifestyles</p> <ul style="list-style-type: none"> • Diet/nutrition/breastfeeding • Physical activity • Use of alcohol, cigarettes, e-cigarettes • Use of substances, non-prescribed drugs, abuse of prescription medication • Social media use • Sexual activity • Risk-taking activity i.e. gambling, addictive behaviour 	<p>There is no specific evidence to suggest the policy has any negative impact on people being able to improve/maintain healthy lifestyles.</p>			

<p>7.3 Social and community influences on health</p> <ul style="list-style-type: none"> • Adverse childhood experiences • Citizen power and influence • Community cohesion, identity, local pride • Community resilience • Domestic violence • Family relationships • Language, cultural and spirituality • Neighbourliness • Social exclusion i.e. homelessness • Parenting and infant attachment • Peer pressure • Racism • Sense of belonging • Social isolation/loneliness • Social capital/support/networks • Third sector & volunteering 	<p>There is no specific evidence to suggest the policy has any negative impact on the use people in terms of social and community influences.</p>			
<p>7.4 Mental Wellbeing</p> <ul style="list-style-type: none"> • Does this proposal support sense of control? • Does it enable participation in community and economic life? • Does it impact on emotional wellbeing and resilience? 	<p>N/A</p>			
<p>7.5 Living/ environmental conditions affecting health</p> <ul style="list-style-type: none"> • Air quality • Attractiveness/access/availability/quality of area, green and blue space, natural space. • Health & safety, community, individual, public/private space • Housing, quality/tenure/indoor environment • Light/noise/odours, pollution • Quality & safety of play areas (formal/informal) 	<p>N/A</p>			

<ul style="list-style-type: none"> • Road safety • Urban/rural built & natural environment • Waste and recycling • Water quality 				
<p>7.6 Economic conditions affecting health</p> <ul style="list-style-type: none"> • Unemployment • Income, poverty (incl. food and fuel) • Economic inactivity • Personal and household debt • Type of employment i.e. permanent/temp, full/part time • Workplace conditions i.e. environment culture, H&S 	<p>There is no specific evidence to suggest the policy has a disproportionate impact on people in terms of their income and employment status.</p>			
<p>7.7 Access and quality of services</p> <ul style="list-style-type: none"> • Careers advice • Education and training • Information technology, internet access, digital services • Leisure services • Medical and health services • Other caring services i.e. social care; Third Sector, youth services, child care • Public amenities i.e. village halls, libraries, community hub • Shops and commercial services • Transport including parking, public transport, active travel 	<p>There is no specific evidence to suggest the policy has any impact on people being able to access the service provided by Public Health Wales.</p>			
<p>7.8 Macro-economic, environmental and sustainability factors</p> <ul style="list-style-type: none"> • Biodiversity • Climate change/carbon reduction/flooding/heatwave • Cost of living i.e. food, rent, transport and house prices • Economic development including trade 	<p>The policy takes into consideration relevant NHS Wales policies, along with relevant National and Strategic Policies</p>			

<ul style="list-style-type: none"> • Government policies i.e. Sustainable Development principle (integration; collaboration; involvement; long term thinking; and prevention) • Gross Domestic Product • Regeneration 				
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Stage 3

Summary of key findings and actions Please answer question 8.1 following the completion of the EHIA and complete the action plan

Key findings: Impacts/gaps/opportunities	Actions (what is needed and who needs to do) to address the identified mitigation and recommendations	Lead		
	<p>Apply the policy fairly and consistently.</p> <p>Provide support and guidance to colleagues using the policy.</p>		<p>Ongoing</p> <p>Ongoing</p>	