

Information on Welsh NHS Confederation risk pool

NHS Wales has a formal approach to addressing concerns raised by patients and their representatives both through the internal arrangements for Putting Things Right and also through the more formal legal process. The NHS Wales Shared Services Partnership (NWSSP) operates a central legal team (Legal and Risk Services) which provides a dedicated professional service to all Welsh Health Boards and Trusts. Health Boards and Trusts retain financial responsibility for settling cases under delegated arrangements from the Welsh Government.

NHS Wales operates a risk pooling scheme which allows Health Boards and Trusts to seek reimbursement for amounts paid out in respect of negligence claims. A £25,000 excess is applied to each claim. The scheme is operated by the Welsh Risk Pool Service (WRPS) which is also part of NHS Wales Shared Service Partnership. In recent years and in common with other nations, NHS Wales has experienced a significant growth in the number and value of legal claims. The reasons for the increase in claims are multifactorial and it is not possible to say with certainty what the primary driver for the increase is. However it has coincided with the Legal Aid, Sentencing and Punishment of Offenders Act (LASPO) coming into effect on 1st April 2013. This legislation has reformed the funding for civil litigation and includes changes to the “no win, no fee” arrangements which allowed success fees of 100% to be charged.

The arrangements in place within Wales also consider the learning in place to reduce the risk of recurrence. Before reimbursement is made by the WRPS, Health Boards and Trusts are required to outline the key weaknesses which gave rise to the claim and outline the steps taken to reduce the risk of recurrence. All claims are considered by a Multi Disciplinary Executive led WRP Committee. Where all Wales issues are evident from claims, the WRPS may undertake themed work to support improvement in quality and safety across Wales. This involves the clinical assessment of high risk areas including those of maternity, emergency departments and the surgical pathway.

The Welsh Risk Pool Service works closely with Legal and Risk Services to undertake monthly reviews of expected financial flows associated with claims. Close dialogue is also maintained with both Directors of Finance across NHS Wales and the position is formally reported each month as part of the NHS monthly monitoring by Welsh Government, and to the wider Welsh NHS. This information also informs the three year financial plans for the WRPS. It is not currently anticipated that the value of claims settled in 2014/2015 will exceed the budget allocation for the current year. However the current projections suggest that there is likely to be an increase in the value of the claims to be settled in 2015/16.