



The Application of the Scheme for GMPI where there are ambulance delays in the community

Queries have been raised about indemnity for GP Practices in the context of ambulance delays in the community and, for example, the following scenarios:

- Where a patient presented to a GP practice, was found to be unwell requiring urgent transfer to secondary care, an ambulance was not available within an appropriate timescale and the patient did not have access to their own transport or was unsafe to drive;
- Where a GP practice advised the patient to arrange private transport to secondary care, even if unwell; or
- Where a GP transferred the patient to secondary care themselves in a private vehicle in exceptional circumstances as a last resort.

The Scheme for GMPI

The discretionary scheme for General Medical Practice Indemnity (GMPI, “the Scheme”) provides indemnity for clinical negligence claims relating to incidents on or after 1 April 2019 for all general medical practice staff when they are undertaking NHS ‘primary medical services’ as defined in The National Health Service (Clinical Negligence Scheme) (Wales) Regulations 2019, namely:

primary medical services: health services provided under a contract, arrangement or agreement made under or by virtue of the following sections of the NHS (Wales) Act 2006:

(a) section 41(2) (primary medical services); [APMS contracts]

(b) section 42(1) (general medical services contracts); [GMS contracts] and

(c) section 50 (arrangements by Local Health Boards for the provision of primary medical services [PMS contracts])

Most such contracts in Wales are GMS contracts.

The scheme for GMPI applies to all staff working in a practice, subject to some specific registration requirements with regard to GP locums.

In addition individual GPs and practices must take out adequate and appropriate professional indemnity cover in relation to risks that are not clinical negligence and covered by GMPI, such as support for inquests or regulatory issues. GP practices also require separate indemnity or insurance to cover the liability for employers, public liability and property claims, and for non-NHS activities which are not provided under a GMS, APMS or PMS contract.

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Advice to the patient, such as advising a patient to arrange private transport to secondary care, is medical advice and is a question of clinical judgement based on the presenting facts. This advice would be captured by GMPI in normal circumstances providing it relates directly to primary general medical care provided under a GMS, APMS or PMS contract (as above).

In exceptional circumstances, where such private transport solutions are unavailable, advice to the patient that the GP in person – or a member of the practice staff – may transport them to hospital personally, is once again medical advice and is a question of clinical judgement based on the presenting facts. This advice would also be captured by GMPI providing it related directly to primary medical care on the basis outlined above. Notwithstanding this, it is recommended that GPs consider the need for appropriate motor insurance as described in more detail below.

Only those activities of GP practices that relate directly to primary general medical care provision (under the provisions of the NHS Wales Act 2006 referred to above) which give rise to a clinical negligence claim would fall within scope of the Scheme.

Usually this will not include accompanying or transporting patients to hospital, this not being a service required under GMS, PMS or APMS

contracts. However it is recognised that in some circumstances a clinician may come to the conclusion that this is medically unavoidable. In an emergency situation in which an ambulance is unavailable, subject to the usual exercise of discretion required by the rules of the scheme, we will treat such circumstances as within scope.

Practical Considerations

When making this decision, GPs are advised to consider the following:

- Before taking a decision to accompany or transport any patient to hospital, a GP should satisfy themselves that they have undertaken a sufficient assessment, which they should document as contemporaneously as possible. As the scenario being contemplated here is an exceptional emergency, this may well be done shortly after the incident. It should be done at the earliest possible opportunity. Whilst the clinical notes would ordinarily capture the clinical reasons for the decisions, it would be sensible to include any relevant comments on the exceptional circumstances, for example:
 - the degree of need for transport (i.e. what might happen if the patient is not moved to hospital, and in what potential timescale)
 - the suitability of any other available transport options (such as the anticipated timescale in which an ambulance will become available, as well as any alternative possible transport methods by friends or family members or by taxi)
 - the potential need for medical attention during the journey (and what might happen if this is not available)
 - the ability and availability of GP practice staff to provide suitable medical attention during the journey (taking into account the risk that the patient's condition might deteriorate in transit)
 - actions that might be taken to mitigate risks in transit (such as taking another member of staff in the vehicle, or hiring a taxi for the journey)
 - In addition, whilst the potential risk to other patients if the GP practice is disrupted by staff absence would not ordinarily be recorded in an individual patient record, this is a factor that the clinician may wish to consider.

- GPs would be acting prudently to make inquiries of their insurance broker in early course as to what type of existing insurance cover they currently have for any car(s) they use for work, and whether that needs to be extended or changed to allow for the possibility of transporting a patient in an emergency situation. For example the scenario in which the driver was involved in an accident when transporting the patient and as a consequence of the accident the patient or another road user suffered harm, might lead to a road traffic/personal injury claim rather than a clinical negligence claim.

Nonetheless GPs, their staff, all NHS employed and contractor staff should always behave in accordance with the requirements of their own clinical and regulatory frameworks, guidance documents, protocols and practice notes. For example taking into account the requirements of Good Medical Practice set out by the GMC.

**General Medical Practice Indemnity Scheme
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