

The National Health Service and Social Care Coronavirus Life Assurance (Wales) Scheme 2020

Preamble

1. The health and social care system is at the forefront of the Welsh Government's response to the pandemic. A fully functioning and comprehensive NHS and social care system is essential to saving lives and to beating coronavirus disease.
2. The system was already under pressure before the pandemic, with steps being taken to recruit more staff to fill shortages and boost service capacity. The pandemic is placing increased demand on these vital services. Retired nurses and doctors are being encouraged to return to the frontline, in situations where they are at increased risk to the rest of the population. In order to ensure the right services are delivered in the right place and resources are utilised where they are most needed, the entire health and social care system is working together to provide an integrated service.
3. In carrying out these essential services, frontline health service and social care staff are coming into close, sustained, personal contact with patients and others who have or are suspected to have coronavirus or coronavirus disease, which means that social distancing is not possible. It is essential that these patients are properly cared for.
4. In ensuring this essential system continues, this scheme recognises the increased risks that frontline NHS and social care staff will face in carrying out their duties during this unprecedented period. It is only right that extra assurance is given to these workers on the frontline of the medical response to the pandemic when we are asking them to return or continue to work despite the increased risks of exposure to the virus.
5. However, the level of financial protection available for NHS and social care staff who die in service varies. Social care staff are unlikely to have access to occupational life assurance. Most NHS staff qualify for a death in service benefit through the NHS Pension Scheme, however not all staff choose to participate. Recently retired NHS staff who return to service get less valuable protection; this is because they received a large tax-free lump sum upon retirement. As part of the NHS pension, all NHS pensioners are guaranteed a minimum of five years' worth of pension payments, with the balance paid to beneficiaries should they die within five years of retirement.
6. The Welsh Ministers have decided to pay a lump sum of £60,000 in respect of the death of NHS and social care staff (including in respect of a death that occurred before this Scheme is established) where the Welsh Ministers can reasonably conclude that in accordance with the rules of the scheme the person's death was caused by coronavirus.
7. Payments will be made in accordance with a special Scheme established by the Welsh Ministers. The Scheme will pay in respect of coronavirus deaths occurring until 25 March 2022 (in line with when provisions of the Coronavirus Act 2020 are due to end). Payments will not be made in respect of any claim made more than six months after that date.
8. This is not a universal Scheme for anyone employed in the health and social care sectors. It is for those who are at high risk of contracting coronavirus by reason of the nature of their job of providing medical treatment or care directly to those suffering from the disease

or providing other related services in close proximity. It recognises the risks given the pressure the system, and its workforce, are under, in delivering this essential service.

9. The lump sum paid is a non-contributory benefit with the cost met by the Welsh Government. It will be paid in addition to any death benefit from a pension scheme membership that the individual had contributed towards: there will be no offsetting. There is no survivor pension to be paid to dependents under this Scheme. Such pensions would be paid through occupational pension schemes.
10. This document sets out the rules that govern the Scheme.

Part 1 Preliminary

1. Establishment of the National Health Service and Social Care Coronavirus Life Assurance (Wales) Scheme 2020, citation, commencement, application and interpretation

1.1. A Scheme is established for the payment of a lump sum following a qualifying death in respect of an eligible individual in accordance with the provisions set out in this Scheme.

1.2 This Scheme—

(a) may be cited as the National Health Service and Social Care Coronavirus Life Assurance (Wales) Scheme 2020;

(b) has effect from 19 June 2020; and

(c) applies to Wales only.

1.3 The expressions listed in column 1 of the Table in the Schedule have the meaning given by the corresponding entry in column 2.

Part 2 Governance

2. Scheme manager and Scheme duration

2.1. The Welsh Ministers are the Scheme manager.

2.2. The Welsh Ministers may arrange for any or all of the Scheme manager's functions under this Scheme to be performed on the Scheme manager's behalf by one or more persons and, in particular, by the NHS Business Services Authority.

2.3 The Scheme has effect from the 19 June 2020 until the Scheme end date.

2.4 The Scheme end date is 25 March 2022.

2.5 The Scheme manager may decide to;

(a) extend the Scheme end date; and/or

(b) bring forward the Scheme end date, but may only do so if there is a period of at least 6 months between the date of the publication of a decision (see paragraph 2.6) to revise the Scheme end date and the revised Scheme end date.

2.6 Any decision to revise the Scheme end date under paragraph 2.5 must be published.

Part 3 Eligible individuals

3. Eligible individuals

3.1. A person is an eligible individual for the purposes of the Scheme if—

(a) the person was engaged in the provision of a service as part of the health service or in the provision of care and support;

(b) the person was not engaged as a volunteer unless the individual was a Registered Healthcare Professional Volunteer;

(c) the person was one of the following—

(i) a person to whom paragraph 4.1, 4.2 or 5.1 applies; or

(ii) a registered healthcare professional volunteer; and

(d) the Scheme manager is satisfied, on the basis of the evidence, the person was exposed to a high risk of contracting Coronavirus in circumstances where they could not reasonably avoid that risk by virtue of the nature and location of the work which they were contracted to carry out.

4. Health service workers

4.1. This paragraph applies to a person employed or engaged—

(a) by an NHS body;

(b) by any other statutory body constituted under an enactment made by the Welsh Ministers in relation to the health service;

(c) pursuant to a contract with an NHS body for the provision of staff or services for the health service where the person is engaged in the provision of those services; or

(d) by a local authority for the provision of public health services; or

(e) pursuant to a contract with an NHS body for the provision of public health services where the person is engaged in the provision of those services.

4.2. This paragraph applies to a person providing services pursuant to, or by virtue of—

(a) an APMS contract;

- (b) a contract or agreement between an NHS trust or foundation trust and a higher education provider covering the provision of NHS services;
- (c) an Eye Health Examination Wales arrangement;
- (d) a General Dental Services contract;
- (e) a General Medical Services contract;
- (f) a General Ophthalmic/Eye Care Services arrangement;
- (g) a General Pharmaceutical Services arrangement;
- (h) a local authority contract for the provision of health or social care services;
- (i) a Low Vision Service arrangement;
- (j) a PDS agreement; or
- (k) a PMS agreement.

5. Member of the social care workforce

5.1 Members of the social care workforce are individuals who are employed or engaged under—

- (a) a contract of service,
- (b) a contract for services, or
- (c) an apprenticeship,

in connection with the provision of social care services, NHS funded care, or the provision of a relevant regulated service by a registered provider.

5.2 For the purposes of this paragraph—

- (a) a registered provider means a person registered under section 7 of the Regulation and Inspection of Social Care (Wales) Act 2016;
- (b) a relevant regulated service means—
 - (i) a care home service, or
 - (ii) a domiciliary support service;

(c) persons employed or engaged in connection with the provision of social care services include persons employed or engaged by a recipient of direct payments made pursuant to regulations made under section 50 or section 51 of the Social Services and Well-being (Wales) Act 2014 .

Part 4 Lump Sum on Qualifying Death

6. Payment under the Scheme

6.1. The Scheme manager may pay a single lump sum of £60,000 in respect of a qualifying death to the eligible individual's personal representatives where a claim is made before or on the date six months after the Scheme end date.

7. Qualifying death

7.1 A death is a qualifying death if, and only if, either paragraph 7.2 or 7.3 apply.

7.2 This paragraph applies if—

(a) the deceased was an eligible individual or, in exceptional circumstances, notwithstanding that the deceased is not an eligible individual, where, having regard to the preamble and the purposes of the Scheme, the Scheme manager considers that they should be treated on the same basis as an eligible individual;

(b) the death occurred before the Scheme end date; and

(c) the Scheme manager is reasonably satisfied that—

(i) the eligible individual was likely to have contracted Coronavirus in the course of their work;

(ii) the eligible individual first exhibited symptoms of Coronavirus Disease—

(aa) within the period of 14 days, or

(bb) such other period as the Scheme manager may consider on the basis of medical evidence,

of being exposed to Coronavirus in the course of their work; and

(iii) that disease was the whole or main cause of the death.

7.3 This paragraph applies if—

(a) the deceased was an eligible individual or, in exceptional circumstances, notwithstanding that the deceased is not an eligible individual, where, having regard to the preamble and the purposes of the Scheme, the Scheme manager considers that they should be treated on the same basis as an eligible individual;

(b) the death occurred before the Scheme end date; and

(c) the Scheme manager is satisfied that—

(i) the eligible individual was providing services as part of the NHS health service, or was providing care and support to those with Coronavirus or Coronavirus Disease; and

(ii) the performance of those functions was likely to have contributed to the death.

Part 5 False representations and withheld information

8. False representations and withheld information

8.1. The Scheme manager may, unless satisfied that it would be unjust—

- (a) decline to make payment under this Scheme; or
- (b) recover any payment made under this Scheme,

if satisfied that the beneficiary or the employer of the eligible individual has made a false representation or withheld information or received a payment under a scheme referred to in paragraph 10.2 and, as a result, the beneficiary obtained a lump sum under this Scheme to which they would not otherwise be entitled.

8.2. If, under paragraph 8.1, the Scheme manager—

- (a) declines to make, or
- (b) decides to recover,

payment, the Scheme manager must give to the beneficiary and employer written notice of the intention to decline to make, or recover, the lump sum.

8.3. The beneficiary or the employer of the eligible individual may make representations within 28 days of the notice being given under paragraph 8.2 above.

8.4. After considering the evidence and any representations made, the Scheme manager must give written notice to the beneficiary and the employer of the eligible individual—

- (a) confirming the determination; or
- (b) reversing the determination and making the payment or, as the case may be, ceasing recovery of payment.

Part 6 General

9. Effect on existing rights and benefits

9.1. A payment under paragraph 6.1 does not affect any right, privilege or benefit acquired or accrued under any existing registered pension scheme, contract or court order that arises from the said death.

9.2. The benefits of this Scheme are in addition to and do not replace any right to payment that the eligible individual may have under any registered pension scheme, contract or court order.

10. Double recovery

10.1 A lump sum payment will only be made once in respect of each qualifying death under this Scheme.

10.2 Payment of a lump sum under this Scheme will not be made if payment has already been made, or will be made, in respect of the eligible individual's death under a scheme established by the UK Government or a Devolved Authority, which the Scheme manager is satisfied is established for substantially the same purposes as this Scheme.

11. Liability

11.1. Payment of a lump sum under this Scheme does not reflect an acceptance on the part of the Welsh Ministers or any employer of any legal liability in respect of the death in respect of which the lump sum is paid.

12. Determination of questions

12.1. A decision to decline to make an award under Part 4 of this Scheme must be recorded in a written determination of the Scheme manager.

12.2 The Scheme manager must adopt a dispute resolution procedure and determine any questions arising under this Scheme in accordance with that procedure.

Schedule

Word or expression	Meaning or reference to provision where meaning is to be found
social care services	means— (a) services which are provided or commissioned by a Welsh local authority in the exercise of its social services functions; (b) services which are commissioned or provided by a Welsh local authority under section 2 of the Local Government Act 2000 and are similar in nature to a service which could be provided by the authority in the exercise of any of its social services functions; and (c) services which are provided to meet those needs of a person which a local authority is meeting by making a direct payment.
social services functions	as defined by section 143 and Schedule 2 of the Social Services and Well-being (Wales) Act 2014.
APMS contract	means arrangements under section 41(2)(b) of the National Health Service (Wales) Act 2006 (primary medical services) between a Local Health Board and an APMS contractor.
Care and support	as defined in section 3 of the Regulation and Inspection of Social Care (Wales) Act 2016.
Coronavirus	as defined by section 1 of the Coronavirus Act 2020.
Coronavirus Disease	as defined by section 1 of the Coronavirus Act 2020.
Devolved Authority	means— (a) Scottish Ministers; or (b) a Northern Ireland Department.
direct payment	means a payment made pursuant to regulations made under section 50 or section 51 of the Social Services and Well-being (Wales) Act 2014.
eligible individual	as defined in paragraph 3.1.
Eye Health Examination Wales arrangement	means an arrangement to provide eye health examinations as commissioned by Local Health Boards under Schedule 1 of the Eye Health Examination Service Committee (Wales) Directions 2016.
General Dental Services contract	means a general dental services contract under section 57 of the National Health Service (Wales) Act 2006.
General Medical Services contract	means a contract under section 42 of the National Health Service (Wales) Act 2006 or under article 13 of the General Medical Services Transitional and Consequential Provisions (Wales) Order 2004 (SI 2004/477).
General Ophthalmic/Eye Care Services arrangement	means— (a) the inclusion in an ophthalmic or supplementary list to undertake to provide, or assist in the provision of general ophthalmic services under the National Health Service (General Ophthalmic Services) Regulations 1986 (SI 1986/975) or the National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006 (SI 2006/181); or (b) arrangements between a local health board and a person who is registered on such an ophthalmic or supplementary list for the provision of other ophthalmic or eye care services.
General Pharmaceutical Services arrangement	means the inclusion in a pharmaceutical list maintained by a local health board for the provision of pharmaceutical services in particular by way of the provision of drugs under Part 2 of the National Health Service (Pharmaceutical Services) (Wales) Regulations 2013 (SI 2013/898).

health service	means the health service referred to in section 1(1) of the National Health Service (Wales) Act 2006.
Low Vision Service arrangement	means an arrangement to provide low vision services assessments and rehabilitation support as commissioned by Local Health Boards under Schedule 1 of the Low Vision Service Committee (Wales) Directions 2016.
NHS body	has the meaning given to it in section 206 of the National Health Service (Wales) Act 2006.
NHS funded care	means personal care funded by a Local Health Board to meet a person's entitlement to — (a) NHS continuing healthcare; or (b) NHS-funded nursing care.
NHS health services	means any kind of health services provided as part of the health service continued under section 1(1) of the National Health Service (Wales) Act 2006 and includes both commissioned services and outsourced services.
PDS agreement	means an agreement for the provision of primary dental services pursuant to section 64 arrangements (see the National Health Service (Wales) Act 2006).
personal representatives	means a person who has been issued with a grant to administer a deceased person's estate.
PMS agreement	means an agreement for the provision of primary medical services pursuant to — (a) section 50 arrangements (see the National Health Service (Wales) Act 2006); or (b) a transitional agreement under Part 4 of the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004 (SI 2004/865).
qualifying death	as defined in paragraph 7.
registered healthcare professional	means a professional registered by the following bodies to provide NHS health services— (a) General Medical Council; (b) General Dental Council; (c) General Optical Council; (d) General Osteopathic Council; (e) General Chiropractic Council; (f) General Pharmaceutical Council; (g) Nursing and Midwifery Council; and (h) Health and Care Professions Council.
registered healthcare professional volunteer	means an individual who is not paid for the work referred to in paragraph 3.1(a) and who is— (a) a registered healthcare professional; and (b) providing NHS health services within the scope of their registered health care profession.
Scheme	means the Scheme established by this document.
Scheme manager	as defined in paragraph 2.1.