

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

SCHEME AMENDMENT

1. The Secretary of State for Health and Social Care (“the Secretary of State”) established the National Health Service and Social Care Coronavirus Life Assurance (England) Scheme 2020¹ (“the Scheme”) at 12:30 p.m. on 20th May 2020.
2. The Secretary of State now amends the Scheme in order to—
 - a) allow persons other than the personal representative to receive payment of the lump sum;
and
 - b) make further provision relating to the closure of the Scheme.
3. The Scheme containing these amendments is in the Schedule to this Instrument. This amended Scheme comes into force at 16:00 on 18 November 2021.

¹ A copy of the Scheme can be found at <https://www.nhsbsa.nhs.uk/nhs-and-social-care-coronavirus-life-assurance-scheme-2020>

SCHEDULE

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

Preamble

1. The health and social care system is at the forefront of the 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 compared to the rest of the population. In order to ensure that 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. 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 Secretary of State for Health and Social Care has 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 Secretary of State 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 Secretary of State for Health and Social Care. The Scheme will pay in respect of coronavirus deaths occurring on or before 31st March 2022. Payments will not be made in respect of any claim made after 31st March 2023.

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 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 (England) 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 (England) Scheme 2020;

(b) has effect from 12:30 p.m. on 20th May 2020; and

(c) applies to England 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

2.1. The Secretary of State for Health and Social Care is the Scheme manager.

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

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 the provision of social care;

(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 Secretary of State is satisfied, on the basis of 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 are 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 Secretary of State in relation to the health service;

(c) by Public Health England;

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

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

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

4.2. This paragraph applies to a person providing services pursuant to—

(a) an APMS contract;

(b) a commissioning contract;

(c) a contract or agreement between an NHS trust or foundation trust and a higher education provider covering the provision of NHS services;

(d) a General Dental Services contract;

(e) a General Medical Services contract;

(f) an integrated care provider contract;

- (g) a local authority contract for the provision of health or social care services;
- (h) an NHS standard contract;
- (i) an NHS standard sub-contract;
- (j) a PDS agreement;
- (k) a PMS agreement; or
- (l) a primary medical and dental services contract.

5. Member of the social care workforce

5.1 This paragraph applies to a person who is employed or engaged under—

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

for the provision of adult social services, children’s social care services, NHS funded care, or the provision of adult social care by a registered provider.

5.2 A registered provider is an organisation which is registered by the Care Quality Commission only in so far that they are registered for the provision of a relevant regulated activity.

5.3 For the purposes of this paragraph, a relevant regulated activity means the following regulated activities set out in Schedule 1 to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 only—

- (a) Paragraph 1 (personal care); and
- (b) Paragraph 2 (accommodation for persons who require nursing or personal care).

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 appropriate person where a claim is made on or before 31st March 2023.

6.2 In paragraph 6.1, the “appropriate person” means—

- (a) the eligible individuals’ personal representatives, or
- (b) a person (P) who meets the conditions set out in paragraph 6.3 below, or

- (c) in exceptional circumstances, any person other than those persons specified in paragraphs (a) or b) above who, having regard to the purposes and preamble of the Scheme, the Scheme Manager considers should receive the payment.

6.3. The conditions are that the Scheme manager is reasonably satisfied that for a continuous period of at least two years ending with the eligible individual's death—

- (a) the eligible individual and P were either married or in a civil partnership or were living together as if married or civil partners;
- (b) the eligible individual and P were financially interdependent or P was financially dependent on the eligible individual; and
- (c) neither the eligible individual nor P were living with a third person as if they were married or civil partners.

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 was not an eligible individual, where, having regard to the preamble and the purposes of the Scheme, the Secretary of State considers that they should be treated on the same basis as an eligible individual;
- (b) the death occurred on or before 31st March 2022; and
- (c) the Secretary of State is reasonably satisfied that—
 - (i) it was likely that the eligible individual 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 Secretary of State 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 was not an eligible individual, where, having regard

to the preamble and the purposes of the Scheme, the Secretary of State considers that they should be treated on the same basis as an eligible individual;

- (b) the death occurred on or before 31st March 2022; and
- (c) the Secretary of State is reasonably satisfied that—
 - (i) the eligible individual was providing services as part of the NHS health service, adult social services or children’s social care services directly 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 written notice of its intention to 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 member 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 a devolved authority, which the Secretary of State is satisfied is established for 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 Secretary of State 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 the 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
2006 Act	National Health Service Act 2006 (c. 41).
2020 Act	Coronavirus Act 2020 (c. 7).
adult social care	as defined by section 9 of the Health and Social Care Act 2008 (c.14), in so far as it relates to persons aged 18 or over.
adult social services	means— (a) services which are provided or commissioned by an English local authority in the exercise of its adult social services functions; (b) services which are commissioned or provided by an English local authority under section 1 of the Localism Act 2011(c.20) and are similar in nature to a service which could be provided by the authority in the exercise of any of its adult 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.
adult social services functions	as defined by section 97(1) of the Health and Social Care Act 2008 (c.14).
APMS contract	arrangements under section 83(2) of the 2006 Act between the National Health Service Commissioning Board or Local Health Board and an APMS contractor.
appropriate person	as defined in paragraph 6.2.
children’s social care services	means— (a) services provided or commissioned in relation to children by a local authority in the exercise of its social services functions as defined in section 1A of the Local Authority Social Services Act 1970 (c. 42) and the duties described in sections 23C to 24D of the Children Act 1989 (c. 41); and (b) services which are provided to meet those needs of a person which a local authority is meeting by making a direct payment.
commissioning contract	means a contract, other than a primary care contract, entered into by a relevant body in the exercise of its commissioning functions and includes an integrated care provider contract.
commissioning functions	means the functions of a relevant body in arranging for the provision of services as part of the health service, but it does not include, in relation to the National Health Service Commissioning Board, its functions in relation to services provided under a primary care contract.
coronavirus	as defined by section 1 of the 2020 Act.
coronavirus disease	as defined by section 1 of the 2020 Act.
devolved authority	means— (a) Scottish Ministers; (b) Welsh Ministers; or (c) a Northern Ireland Department.
direct payment	means either: (a) in relation to adult social services, a payment made under section 31 or section 32 of the Care Act 2014 (c. 23); or

	(b) in relation to children's social care services, a payment made under section 17A of the Children Act 1989 (c.41) and regulations 4 and 7 of the Community Care, Services for Carers and Children's Services (Direct Payments) (England) Regulations 2009 (S.I. 2009/1887).
eligible individual	as defined in paragraph 3.
General Dental Services contract	a general dental services contract under section 100 of the 2006 Act.
General Medical Services contract	a contract under section 84 of the 2006 Act or under article 13 of the General Medical Services Transitional and Consequential Provisions Order 2004 (S.I. 2004/433).
health care	as defined by section 9 of the Health and Social Care Act 2008 (c. 14).
health service	means the health service referred to in section 1(1) of the 2006 Act.
integrated care provider contract	has the meaning given in paragraph 3 of Schedule 3A to the National Health Service (General Medical Services Contracts) Regulations 2015 (S.I. 2015/1862).
Local Health Board	a body established under section 11 of the National Health Service (Wales) Act 2006 (c. 42).
National Health Service Commissioning Board	as established by section 1H of the 2006 Act.
NHS Business Services Authority	the NHS Business Services Authority was established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005 (S.I. 2005/2414).
NHS body	has the meaning given to it in the 2006 Act, excluding a Local Health Board.
NHS funded care	means personal and nursing care funded by the National Health Service Commissioning Board pursuant to— (a) NHS continuing healthcare (as defined in the Delayed Discharges (Continuing Care) Directions 2013); (b) NHS-funded nursing care (as defined in the National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care 2018); and (c) personal health budgets (as defined in regulation 32A of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standing Rules) Regulations 2012 (S.I. 2012/2996)).
NHS health services	any kind of health services provided as part of the health service continued under section 1(1) of the 2006 Act and includes both commissioned services and outsourced services.
NHS standard contract	means the terms and conditions from time to time drafted by the National Health Service Commissioning Board pursuant to regulation 17 of the National Health Service Commissioning Board and Clinical Commissioning Groups (Responsibilities and Standard Rules) Regulations 2012 (S.I. 2012/2996).
NHS standard sub-contract	a sub-contract that complies with the National Health Service Commissioning Board's guidance "NHS Standard Sub-Contract for the Provision of Clinical Services 2017/18 and 2018/19 (full length and shorter-form versions) Guidance".
PDS agreement	an agreement for the provision of primary dental services pursuant to section 107 arrangements (as defined in the 2006 Act).
personal representatives	a person who has been issued with a grant to administer a deceased person's estate.

PMS agreement	an agreement for the provision of primary medical services pursuant to— (a) section 92 arrangements (as defined in the 2006 Act); or (b) a transitional agreement under Part 4 of the General Medical Services and Personal Medical Services Transitional and Consequential Provisions Order 2004 (S.I. 2004/865) (no longer in force).
primary care contract	means a contract or other arrangement between the National Health Service Commissioning Board and a provider of primary care services to provide one or more primary care services, but does not include an integrated care provider contract.
primary care services	means services provided as part of the health service pursuant to arrangements made by the National Health Service Commissioning Board under Parts 4 to 7 of the 2006 Act.
primary medical and dental services contract	means a contract or other arrangement between the National Health Service Commissioning Board and a provider of primary medical and dental services to provide one or more primary medical and dental services, but does not include an integrated care provider contract.
primary medical and dental services	means services provided as part of the health service pursuant to arrangements made by the National Health Service Commissioning Board under Parts 4 and 5 of the 2006 Act
qualifying death	as defined in paragraph 7.
registered healthcare professional	a professional registered by any of 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; or h) Health and Care Professions Council.
registered healthcare professional volunteer	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.
Relevant body	the National Health Service Commissioning Board or a clinical commissioning group (CCG). A CCG is a body established under section 14D of the 2006 Act.
social care	means— a) social care as defined by section 9 of the Health and Social Care Act 2008 (c. 14); b) activities provided or commissioned in relation to children by a local authority in the exercise of its social services functions as defined in section 1A of the Local Authority Social Services Act 1970 (c. 42); and c) the duties described in sections 23C to 24D of the Children Act 1989 (c. 41).
Scheme	the scheme established by this document.
Scheme manager	as defined in paragraph 2.1.