

# Agenda – Y Pwyllgor Iechyd, Gofal Cymdeithasol a Chwaraeon

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Lleoliad:	I gael rhagor o wybodaeth cysylltwch a:
Ystafell Bwyllgora 2 – Y Senedd	Sarah Beasley
Dyddiad: Dydd Mercher, 23 Hydref 2019	Clerc y Pwyllgor 0300 200 6565
Amser: 09.15	<a href="mailto:Seneddlechyd@cynulliad.cymru">Seneddlechyd@cynulliad.cymru</a>

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## Rhag-gyfarfod anffurfiol (09.15–09.30)

- 1 Cyflwyniad, ymddiheuriadau, dirprwyon a datgan buddiannau**  
(09.30)
- 2 Gwasanaethau Awtistiaeth yng Nghymru: Sesiwn dystiolaeth gyda'r Gweinidog Iechyd a Gwasanaethau Cymdeithasol**  
(09.30–10.00) (Tudalennau 1 – 17)  
Vaughan Gething AC, Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol  
Albert Heaney, Cyfarwyddwr y Gwasanaethau Cymdeithasol ac Integreiddio – Llywodraeth Cymru

Briff ymchwil

[Datganiad Ysgrifenedig: Gwella gwasanaethau awtistiaeth](#)

Papur gan Llywodraeth Cymru

- 3 Bil y Gwasanaeth Iechyd Gwladol (Indemniadau) (Cymru): Sesiwn dystiolaeth gyda'r Gweinidog Iechyd a Gwasanaethau Cymdeithasol**  
(10.00–10.40) (Tudalennau 18 – 43)  
Vaughan Gething AC, Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol  
Frances Duffy, Cyfarwyddwr, Gofal Sylfaenol a Gwyddor Iechyd, Llywodraeth Cymru

Sarah Tyler, Gyfreithiwr, Llywodraeth Cymru



[Bil y Gwasanaeth Iechyd Gwladol \(Indemniadau\) \(Cymru\)](#)

[Bil y Gwasanaeth Iechyd Gwladol \(Indemniadau\) \(Cymru\) – Memorandwm Esboniadol](#)

Briff ymchwil

Papur 1 – Cymdeithas Feddygol Prydain Cymru

Papur 2 – Coleg Brenhinol yr Ymarferwyr Cyffredinol

Papur 2a – Addysg a Gwella Iechyd Cymru

**Egwyl (10.40 – 10.45)**

**4 Bil y Gwasanaeth Iechyd Gwladol (Indemniadau) (Cymru): Sesiwn dystiolaeth gyda'r Sefydliadau Amddiffyn Meddygol**

(10.45–11.45)

(Tudalennau 44 – 51)

Mary-Lou Nesbitt, Pennaeth Cysylltiadau Llywodraethol ac Allanol, Yr Undeb Amddiffyn Meddygol

Dr Matthew Lee, Cyfarwyddwr Gwasanaethau Proffesiynol, Yr Undeb Amddiffyn Meddygol

Emma Parfitt, Cyfarwyddwr Gwasanaethau Cyngori a Chyfreithiol, Undeb Amddiffyn Meddygol a Deintyddol yr Alban

David Sturgeon, Cyfarwyddwr Datblygu, Undeb Amddiffyn Meddygol a Deintyddol yr Alban

Papur 3 – Yr Undeb Amddiffyn Meddygol

Papur 4 – Y Gymdeithas Amddiffyn Meddygol

Papur 4a – Undeb Amddiffyn Meddygol a Deintyddol yr Alban

**5 Papurau i'w nodi**

(11.45)

- 5.1 Llythyr gan y Gweinidog Iechyd a Gwasanaethau Cymdeithasol ynghylch Pwysau Iach: Cymru Iach**  
(Tudalennau 52 – 53)
- 5.2 Llythyr gan Gadeirydd y Pwyllgor Plant, Pobl Ifanc ac Addysg ynghylch hawliau plant yng Nghymru**  
(Tudalennau 54 – 55)
- 6 Cynnig o dan Reol Sefydlog 17.42(vi) i benderfynu gwahardd y cyhoedd o weddill y cyfarfod hwn**  
(11.45)
- 7 Bil y Gwasanaeth Iechyd Gwladol (Indemniadau) (Cymru): Trafod y dystiolaeth ac ystyried themâu sy'n codi**  
(11.45–12.15)
- 8 Effaith Deddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 mewn perthynas â Gofalwyr: Trafod yr adroddiad drafft**  
(12.15–12.30)

Mae cyfyngiadau ar y ddogfen hon

# Y PWYLLGOR IECHYD, GOFAL CYMDEITHASOL A CHWARAEON

## GWASANAETHAU AWTISTIAETH

### TYSTIOLAETH GAN Y GWEINIDOG IECHYD A GWASANAETHAU CYMDEITHASOL

#### Diben

Diben y papur hwn yw diweddarau'r Pwyllgor Iechyd, Gofal Cymdeithasol a Chwaraeon ar wasanaethau awtistiaeth.

#### Cyflwyniad

Ar 25 Hydref 2018, mynychais sesiwn y Pwyllgor Iechyd, Gofal Cymdeithasol a Chwaraeon i gyflwyno tystiolaeth yn ymwneud â Bil Awtistiaeth (Cymru). Yn ystod y sesiwn hon fe gytunais i ddychwelyd ymhen blwyddyn i roi diweddariad i'r Pwyllgor ar wasanaethau awtistiaeth. Mae'r papur tystiolaeth hwn yn darparu diweddariad ar ddatblygiadau ar gyfer gwasanaethau awtistiaeth dros y flwyddyn ddiwethaf, gan ganolbwyntio ar y meysydd a ddeilliodd o argymhellion *Adroddiad Cyfnod 1 y Pwyllgor Bil Awtistiaeth (Cymru) (Rhagfyr 2018)*.

#### Cefndir

Yn dilyn cyhoeddi'r fersiwn wedi'i diweddarau o'r Cynllun Gweithredu Strategol ar gyfer Anhwyllderau'r Sbectrwm Awtistig (2016), mae'r Gwasanaeth Awtistiaeth Integredig Cenedlaethol (IAS) wedi'i gyflwyno trwy Fyrddau Partneriaeth Rhanbarthol. Darparwyd £13 miliwn trwy'r Gronfa Gofal Integredig i gefnogi hyn, ac mae'r gwaith yn cael ei gefnogi gan y Tîm Awtistiaeth Cenedlaethol, sy'n cael ei gynnal gan Gymdeithas Llywodraeth Leol Cymru ac Iechyd Cyhoeddus Cymru. Ym mis Gorffennaf 2019 cyhoeddwyd yr ail adroddiad blynyddol ar y gwaith o gyflwyno ein strategaeth awtistiaeth<sup>1</sup>. Y tri maes blaenoriaeth a nodir yn y strategaeth yw asesu a diagnosis; mynd i'r afael ag anghenion cymorth; a chodi ymwybyddiaeth, gwybodaeth a hyfforddiant.

#### Diweddariad

##### *Gwasanaeth niwroddatblygiad*

Ers 2015, mae Llywodraeth Cymru wedi darparu £2 filiwn bob blwyddyn i sefydlu a darparu gwasanaethau niwroddatblygiadol penodedig ledled Cymru. Fel arfer, bydd diagnosis o awtistiaeth ar gyfer plant a phobl ifanc yn cael ei wneud gan y timau hyn. Sefydlwyd y gwasanaeth o dan y rhaglen Law yn Llaw at Blant a Phobl Ifanc.

Sefydlwyd y gwasanaeth i wella gwasanaethau asesu ar gyfer pobl ifanc o dan 18 oed a allai fod â chyflwr niwroddatblygiadol. Sefydlwyd gwasanaethau arbenigol am y tro

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<sup>1</sup> Llywodraeth Cymru (2019) Anhwyllder y Sbectrwm Awtistiaeth: Adroddiad Blynyddol 2018-19 [https://llyw.cymru/anhwylder-y-sbectrwm-awtistiaeth-adroddiad-blynyddol-2018-i-2019?\\_ga=2.154187711.687291171.1571302676-881363834.1547048528](https://llyw.cymru/anhwylder-y-sbectrwm-awtistiaeth-adroddiad-blynyddol-2018-i-2019?_ga=2.154187711.687291171.1571302676-881363834.1547048528)

cyntaf yn 2016 ac maent ar gael ym mhob bwrdd iechyd yng Nghymru. Rydym wedi cyflwyno targed amser aros o 26 wythnos ar gyfer byrddau iechyd ac rydym yn gweithio'n agos gyda'r byrddau iechyd a Gwasanaeth Gwybodeg Cymru i sicrhau bod y data yn gywir. Unwaith y caf i sicrwydd am ddilysrwydd y data, bydd yn cael ei gyhoeddi ar Stats Cymru.

Bu'r galw am y gwasanaeth yn uwch o lawer na'r hyn a ragwelwyd gan y byrddau iechyd. Felly, er mwyn deall galw a chapasiti'r gwasanaeth yn well, rydym yn bwriadu comisiynu ymarferiad cwmpasu, a fydd yn helpu i lywio'r gwaith o ddatblygu gwasanaethau yn y dyfodol. Mae'r dull gweithredu arfaethedig ar gyfer yr adolygiad hwnnw wedi'i nodi'n ddiweddarach yn y papur hwn.

Yn ddiweddar, rwyf wedi cytuno, yn egwyddorol, i ymestyn ein rhaglen Law yn Llaw at Blant a Phobl Ifanc. Byddaf yn disgwyl fod y rhaglen hon dan arweiniad y GIG yn parhau i ymgysylltu â phobl sy'n defnyddio gwasanaethau er mwyn sbarduno gwelliannau, a gwella ansawdd a chanlyniadau ar gyfer pobl sy'n defnyddio gwasanaethau, sy'n cynnwys gwasanaethau niwroddatblygiadol, ledled Cymru.

### *Gwasanaeth Awtistiaeth Integredig Cenedlaethol*

Erbyn hyn, mae'r IAS wedi'i gyflwyno'n llawn ledled Cymru. Mae timau IAS yn gweithredu yng Nghaerdydd a'r Fro, Cwm Taf, Gwent, Powys, Gogledd Cymru, Bae'r Gorllewin a Gorllewin Cymru. Bu'r IAS yn cydweithio ar lefel leol a chenedlaethol, gan ddatblygu a chynnal cysylltiadau agos ag asiantaethau eraill sy'n darparu cymorth, yn enwedig gwasanaethau anabledau dysgu, iechyd meddwl a gofal cymdeithasol sy'n elfen hanfodol o'r gwasanaeth cyffredinol sy'n cael ei gynnig.

Mae rhai enghreifftiau diweddar o waith sy'n cael ei wneud gyda sefydliadau'r sector gwirfoddol yn cynnwys cyflwyno rhaglen addysg i gleifion sydd wedi'i haddasu'n arbennig ac yn canolbwyntio ar weithio gyda phobl ifanc yng Ngwent. Yng Nghaerdydd, mae rhaglen gymorth a gwybodaeth ôl-ddiagnostig ar gyfer oedolion wedi'i llunio gan yr IAS a 21 High Street, elusen awtistiaeth yng Nghaerdydd. Mae'r ddwy raglen wrthi'n cael eu cyflwyno ledled Cymru.

Yn ogystal, mae pob IAS a'r Tîm Awtistiaeth Cenedlaethol yn canolbwyntio ar y ffordd orau o gefnogi a gweithio gyda gofalwyr a rhieni awtistig. Mae'r gwaith hwn yn cael ei ddatblygu o ganlyniad i'r ymholiadau gan rieni awtistig gan eu bod wedi dod i'r casgliad nad yw cyrsiau a chymorth rhianta traddodiadol yn diwallu anghenion eu teulu. Datblygir adnoddau newydd mewn partneriaeth â rhieni, ac fe'u rhennir gyda'r sectorau gofal plant a chymorth i deuluoedd ehangach.

Ers mis Ebrill eleni, rydym wedi bod yn treialu model casglu data sy'n canolbwyntio ar ganlyniadau i fesur effaith y gwasanaethau ar fywydau pobl awtistig sy'n cael eu cefnogi. Yn ogystal â hyn, mae pob IAS yn defnyddio'r dull sêr ar gyfer canlyniadau gyda phob cyfranogwr i gytuno ar nodau a mesur y pellter a deithiwyd.

### *Y Tîm Awtistiaeth Cenedlaethol*

Mae'r Tîm Awtistiaeth Cenedlaethol yn parhau i fod â rôl ganolog yn cefnogi'r gwaith o gyflawni blaenoriaethau Llywodraeth Cymru ar gyfer gwasanaethau awtistiaeth. Mae

cynllun gwaith blynyddol ar gyfer 2019/20 wedi'i gytuno a'i gyhoeddi ar ei wefan<sup>2</sup>. Mae hyn yn cynnwys cefnogi'r Gwasanaeth Awtistiaeth Integredig, ynghyd â chynhyrchu amrywiaeth eang o adnoddau ar gyfer pobl awtistig, eu teuluoedd a gofalwyr mewn cydweithrediad â rhanddeiliaid sydd ar gael ar y wefan ([www.asdinfoales.co.uk](http://www.asdinfoales.co.uk)). Cyhoeddodd y Tîm ei ail adroddiad blynyddol ym mis Mehefin eleni<sup>3</sup>.

Dyma rai enghreifftiau o'r hyn mae'r Tîm wedi'i gyflawni yn ystod y flwyddyn ddiwethaf:

- Cynnydd o 62% yn nifer y bobl sy'n defnyddio ei wefan o gymharu â'r flwyddyn flaenorol, gyda 10,575 o ddefnyddwyr y mis ar gyfartaledd – cynnydd o dros 3,500 o ddefnyddwyr o gymharu â'r flwyddyn flaenorol.
- Cynhaliwyd Cynhadledd Awtistiaeth Genedlaethol Cymru, "Hyrwyddo Llesiant Awtistig", ar 3 Ebrill yn Stadiwm Liberty, Abertawe, gyda'r nod o wella llesiant oedolion awtistig nad ydynt o reidrwydd mewn cysylltiad rheolaidd â gwasanaethau cyhoeddus neu drydydd sector, ond y byddai digwyddiad am lesiant a gwella eu gallu i ymdopi â bywyd o ddydd i ddydd yn fuddiol a chadarnhaol iddynt. Bu'r digwyddiad yn llwyddiant ysgubol, ac roedd y gwaith trefnu yn enghraifft dda o gydweithio.
- Mae'r Tîm wedi cwblhau cynllun Dysgu Seiliedig ar Waith a gyd-gynhyrchwyd gyda dysgwyr awtistig, Ffederasiwn Hyfforddiant Cenedlaethol Cymru, Arweinwyr ASD ac Associated Community Training Limited (ACT). Nod y rhaglen dysgu seiliedig ar waith yw rhoi gwybodaeth ac arweiniad i sefydliadau ar fod yn ymwybodol o awtistiaeth a deall sut i gefnogi eu dysgwyr awtistig yn effeithiol. Lanswyd y rhaglen hon gan y Gweinidog Addysg ar 24 Medi 2019.

### *Gwerthusiad Annibynnol*

Ym mis Ebrill, ymrwymais i gyhoeddi'r gwerthusiad annibynnol o'r Gwasanaeth Awtistiaeth Integredig<sup>4</sup>; nododd yr adroddiad fod croeso mawr i'r IAS, a gwnaeth argymhellion ynghylch meysydd y mae angen canolbwyntio mwy arnynt. Yn 2018, comisiynais hefyd estyniad i'r gwerthusiad i ddarparu darlun cliriach o wasanaethau presennol ac i sicrhau bod gennym y wybodaeth sydd ei hangen arnom i wneud y penderfyniadau iawn ynghylch gwasanaethau i'r dyfodol. Cyhoeddwyd yr adroddiad gwerthuso *Astudiaeth Gwmpasu ar gyfer Alinio a Datblygu Gwasanaethau Awtistiaeth a Niwroddatblygiadol*<sup>5</sup>, ac mae'n rhoi syniad gwell i ni o allu ein gwasanaethau i ymateb i'r galw am gymorth, sy'n cynyddu o hyd.

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<sup>2</sup> Cynllun Gwaith y Tîm Awtistiaeth Cenedlaethol 2019-20  
[https://www.asdinfoales.co.uk/resource/National-Autism-Team-Work-Plan-2019-20\\_cym.pdf](https://www.asdinfoales.co.uk/resource/National-Autism-Team-Work-Plan-2019-20_cym.pdf)

<sup>3</sup> Adroddiad Blynyddol y Tîm Awtistiaeth Cenedlaethol 2018/19  
[https://www.asdinfoales.co.uk/resource/National-Autism-Team\\_Annual-Report\\_2018-19\\_cym.pdf](https://www.asdinfoales.co.uk/resource/National-Autism-Team_Annual-Report_2018-19_cym.pdf)

<sup>4</sup> Llywodraeth Cymru (Ebrill 2019) Gwerthusiad o'r Gwasanaeth Awtistiaeth Integredig a'r Cynllun Gweithredu Strategol ar gyfer Anhwyllderau'r Sbectwm Awtistig: adroddiad terfynol  
<https://llyw.cymru/gwerthusiad-gwasanaeth-awtistiaeth-integredig-cynllun-gweithredu-strategol-anhwyllder-awtistig-terfynol>

<sup>5</sup> Llywodraeth Cymru (2019) Astudiaeth Gwmpasu ar gyfer Alinio a Datblygu Gwasanaethau Awtistiaeth a Niwroddatblygiadol <https://llyw.cymru/gwasanaethau-awtistiaeth-niwroddatblygiadol>

Rydym wedi derbyn yr argymhellion a wnaed yn y ddau adolygiad annibynnol o wasanaethau awtistiaeth, ac yn gweithredu yn eu cylch.

### *Cod Ymarfer ar gyfer Gwasanaethau Awtistiaeth*

Mae Llywodraeth Cymru wedi ymrwymo i gyhoeddi Cod Ymarfer ar gyflenwi gwasanaethau awtistiaeth o dan Ddeddf Gwasanaethau Cymdeithasol a Llesiant (Cymru) 2014 a Deddf y GIG 2006. Agorodd ymgynghoriad ar ein cynigion ar gyfer y Cod ar 30 Tachwedd 2018, a daeth i ben ar 1 Mawrth 2019. Cynhaliwyd pedwar prif ddigwyddiad i randdeiliaid ym mis Chwefror yn Llandrindod, Abertawe, Llandudno a Chaerdydd. Cyhoeddwyd adroddiad ar yr ymatebion i'r ymgynghoriad ym mis Gorffennaf<sup>6</sup>. Ar y cyfan, roedd yr ymatebion yn cefnogi'r cynigion. Roedd y rhan fwyaf o'r ymatebion yn seiliedig ar awgrymiadau o faterion pellach y dylid eu hystyried neu geisiadau am fwy o eglurder mewn rhai meysydd. Roedd enghreifftiau o'r materion allweddol i ymchwilio ymhellach iddynt a nodwyd yn yr ymatebion yn cynnwys manylion llwybrau a rôl yr hyrwyddwr awtistiaeth ar Fyrddau Partneriaeth Rhanbarthol.

Gan adeiladu ar yr ymgynghoriad cyntaf hwn, rydym yn parhau i wrando ar bobl awtistig trwy ymgysylltu'n uniongyrchol mewn digwyddiadau a chyfarfodydd ledled Cymru. Fe wnaethom gynnal ein cylch cyntaf o grwpiau technegol i gynghori ar y cod ym mis Gorffennaf eleni, a byddant yn cyfarfod eto ym mis Tachwedd. Rydym yn trefnu digwyddiadau rhanddeiliaid pellach yn y Gorllewin a'r Gogledd ar gyfer mis Tachwedd. Byddwn hefyd yn mynychu digwyddiadau megis ADFest ar gyfer pobl ag anableddau dysgu ac yn cyfarfod â'r Adran Gwaith a Phensiynau (DWP), Gofal Cymdeithasol Cymru, Addysg a Gwella Iechyd Cymru a chynrychiolwyr o sawl un o'r Colegau Brenhinol. Byddwn yn cyfarfod ag arweinwyr gweithluoedd awdurdodau lleol hefyd.

Rydym hefyd yn gweithio gyda'n partneriaid mewn awdurdodau lleol a byrddau iechyd i wrando ar safbwyntiau grwpiau rhanddeiliaid lleol. Er enghraifft, yn ddiweddar cyfarfu fy swyddogion â grŵp o oedolion awtistig ym Mhowys i drafod eu barn a'u profiadau er mwyn helpu i lywio datblygiad y Cod. Byddwn yn parhau i ymgysylltu ag oedolion awtistig ar draws y rhanbarthau.

Rydym yn gwrandao ar yr adborth ac yn gweithredu. Er enghraifft, mewn ymateb i geisiadau am ddull clir a chynhwysfawr sydd hefyd yn hygyrch, byddwn yn cyhoeddi cod ymarfer drafft cryno, gyda dogfen ganllawiau ar wahân i esbonio beth sy'n ddisgwyliedig, ac rydym yn ehangu cwmpas yr asesiad effaith rheoleiddiol i sicrhau bod modd cyflenwi'r cod heb gael effaith negyddol ar wasanaethau eraill.

Yn fy Natganiad Ysgrifenedig ar wasanaethau awtistiaeth ar 23 Medi<sup>7</sup>, ymrwymais i anfon copi o'r cod drafft i'r Pwyllgor erbyn diwedd y flwyddyn galendr hon er mwyn cael adborth. Mae llawer iawn o waith i'w wneud o hyd i sicrhau bod y Cod Ymarfer,

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<sup>6</sup> Adroddiad ar yr Ymgynghoriad ar Gynigion ar gyfer y Cod Ymarfer ar Gyflenwi Gwasanaethau Awtistiaeth

<https://lyw.cymru/cod-ymarfer-ar-ddarparu-gwasanaethau-awtistiaeth>

<sup>7</sup> Datganiad Ysgrifenedig – Gwella Gwasanaethau Awtistiaeth

<https://lyw.cymru/datganiad-ysgrifenedig-gwella-gwasanaethau-awtistiaeth>



pan gaiff ei gyhoeddi, yn gosod cyfrifoldebau clir ar sefydliadau statudol, ond ei fod yn cael ei ddatblygu hefyd mewn ffordd sy'n caniatáu iddo gael ei roi ar waith yn ymarferol. Ein bwriad ar hyn o bryd yw y bydd ymgynghoriad cyhoeddus ar y cod, y canllawiau cysylltiedig a'r Asesiad Effaith Rheoleiddiol yn cael eu cyhoeddi cyn Pasg 2020.

### *Adolygiad o Alw a Chapasiti*

Fel rhan o ddatblygiad y Cod Ymarfer ar gyflenwi gwasanaethau awtistiaeth, rydym yn cynnal Asesiad Effaith Rheoleiddiol cynhwysfawr i sicrhau bod gofynion y cod yn ymarferol a bod modd eu cyflawni. I ddarparu'r wybodaeth angenrheidiol i lywio'r asesiad hwn, rydym yn cynnal adolygiad o alw a chapasiti gwasanaethau niwroddatblygiadol plant, y Gwasanaeth Awtistiaeth Integredig (IAS) a chymorth awtistiaeth ehangach. Bydd y cyfnod meincnodi cyntaf yn darparu darlun cywir o sut mae'r gwasanaethau niwroddatblygiadol a'r IAS yn gweithredu ac yn rheoli'r galw cynyddol am wasanaethau.

Bydd ail gam yr adolygiad hwn yn ystyried gwasanaethau awtistiaeth ehangach ac yn ystyried barn pobl awtistig a'u rhieni a'u gofalwyr. Bydd yn canolbwyntio hefyd ar rwystrau i'r gweithlu ac yn ceisio mynd i'r afael â bylchau mewn darpariaeth. Bydd yr adolygiad yn ystyried hefyd yr argymhellion perthnasol a wnaed yn yr adroddiad gwerthuso annibynnol cyntaf a gyhoeddwyd ym mis Ebrill 2019 a'r Adolygiad Cwmpasu a gyhoeddwyd ym mis Medi.

Mae llawer o'r materion sy'n cael sylw yn yr adroddiadau hyn yn gyffredin ar draws ieuchyd a gofal cymdeithasol ac mewn gwasanaethau ieuchyd meddwl a gwasanaethau plant. Mae trafodaethau â'n partneriaid, gan gynnwys pobl a gwasanaethau awtistig, yn awgrymu nad oes ateb syml i fynd i'r afael â'r galw cynyddol. Nid yw mor syml â chynyddu'r cyllid i recriwtio mwy o staff gan fod prinder arbenigwyr cymwys. Ni fydd gosod dyletswyddau cyfreithiol a thargedau mwy caeth yn ddigon, gan y bydd hyn yn rhoi mwy fyth o bwysau ar wasanaethau sydd eisoes yn cael trafferthion i ganolbwyntio ar gyflawni targedau ar draul cymorth gwirioneddol angenrheidiol. Rydym yn gwybod bod ffocws ar leihau amseroedd aros yn cyflawni canlyniadau, ond mae yna gost i hyn gan nad oes gan glinigwyr mewn llawer o ardaloedd y capasiti i ddarparu cymorth ôl-ddiagnostig i blant a'u teuluoedd. Mae'r rhain yn rhieni sy'n ceisio cael sicrwydd a chymorth yn dilyn diagnosis eu plentyn, ac mae staff yn adrodd eu rhwystredigaeth eu hunain ynghylch y cyfyngiadau o ran ystod y cymorth y gallant ei gynnig.

Rydym yn sefydlu grŵp gorchwyl a gorffen i gwmpasu ail gam yr adolygiad a fydd yn cynnwys pobl awtistig a'u cynrychiolwyr. Byddwn hefyd yn gwahodd cynrychiolwyr o faes addysg, o'r trydydd sector ac o Gofal Cymdeithasol Cymru ac Addysg a Gwella Iechyd Cymru. Rydym eisiau i'r gwaith hwn fod yn ddadansoddiad trylwyr a darparu opsiynau ar gyfer gwella gwasanaethau sy'n hygyrch i'r dyfodol. Bydd angen i'r adolygiad hwn weithio ochr yn ochr â datblygiad y Cod Ymarfer a'r Asesiad Effaith Rheoleiddiol, ac rydym yn rhagweld y bydd yn cael ei gwblhau o fewn 12 mis fel y bydd y Cod Ymarfer terfynol yn cael ei gyhoeddi erbyn gwanwyn 2021.

Ochr yn ochr â hyn, mae anghenion pobl awtistig yn mynd y tu hwnt i'r blaenoriaethau y gellir eu cynnwys mewn cod. Rydym yn gweithio i gefnogi gwasanaethau sy'n helpu pobl awtistig i ddod o hyd i gyflogaeth a'i chadw. Rydym wedi bod yn gweithio'n agos

gyda'r Adran Gwaith a Phensiynau a staff Canolfannau Gwaith i hyfforddi a chefnogi eu cynghorwyr cyflogaeth i bobl anabl. Mae llawer o enghreifftiau o arfer da, er enghraifft, yn y Gogledd ac yn y rhan fwyaf o ranbarthau, mae'r IAS yn darparu sesiynau galw heibio wythnosol mewn canolfannau gwaith lleol, ac yn y De-orllewin, mae'r cynghorydd cyflogaeth i bobl anabl yn mynychu grwpiau rhanddeiliaid awtistiaeth yr awdurdod lleol. Mae cysylltiadau'n cael eu gwneud hefyd â cholegau AB lleol i gefnogi cynnydd pobl awtistig y tu hwnt i'r coleg.

Rydym yn gweithio hefyd ar draws Llywodraeth Cymru i sicrhau y bydd gwasanaethau cyflogaeth ledled Cymru yn ystyried anghenion pobl awtistig. Bydd ein gwasanaeth cyflogadwyedd newydd, 'Cymru'n Gweithio' yn darparu pwynt mynediad cenedlaethol i gymorth cyflogadwyedd. Darperir y gwasanaeth gan Gyrfa Cymru fel gwasanaeth cyngor ac arweiniad cenedlaethol, ac mae'n darparu cymorth sy'n canolbwyntio ar gyflogaeth sy'n hyblyg ac yn briodol i amgylchiadau unigolion.

Rydym eisiau sicrhau bod sefydliadau sector gwirfoddol yn cael cyfle i fod yn rhan o'n rhaglen i ddiwygio awtistiaeth. Ochr yn ochr â'r gwaith sydd eisoes yn mynd rhagddo rhwng gwasanaethau lleol, mae sefydliadau sector gwirfoddol wedi cael cyfle i gyflwyno cais i Gynllun Grant y Trydydd Sector ar gyfer Gwasanaethau Cymdeithasol Cynaliadwy 2020-23. Rydym wedi derbyn sawl cais i gefnogi gwasanaethau awtistiaeth ac mae'r holl geisiadau yn cael eu hasesu. Rwy'n rhagweld y bydd canlyniadau'r asesiad ar gael erbyn diwedd mis Tachwedd.

Yn fy natganiad ysgrifenedig dyddiedig 23 Medi 2019, amlinellais mai ein blaenoriaeth ar gyfer gwasanaethau awtistiaeth a niwroddatblygiadol dros y flwyddyn i ddod yw sicrhau bod gwasanaethau yn gynaliadwy yn yr hirdymor. Bydd y buddsoddiad rydym yn ei wneud yng ngwasanaethau niwroddatblygiadol plant yn parhau, ac rydym yn monitro'r canlyniadau yn ofalus. Yn yr un datganiad, cyhoeddais y bydd y £3 miliwn y flwyddyn sy'n ariannu'r Gwasanaethau Awtistiaeth Integredig ar hyn o bryd hyd at fis Mawrth 2021 yn dod yn gyllid rheolaidd heb leihau effaith i unrhyw newidiadau y byddwn yn ceisio eu gwneud i fodol gweithredu'r gwasanaethau hyn yn dilyn cwblhau ein hastudiaethau gwerthuso. Credaf fod y camau gweithredu hyn yn atgyfnerthu ein hymrwymiad i wella bywydau pobl awtistig a'u teuluoedd a'u gofalwyr.

# Eitem 3

Yn rhinwedd paragraff(au) vi o Reol Sefydlog 17.42

Mae cyfyngiadau ar y ddogfen hon

Y Gymdeithas Feddygol Brydeinig	British Medical Association
Pumed Llawr	Fifth Floor
2 Pentir Caspian	2 Caspian Point
Ffordd Caspian	Caspian Way
Bae Caerdydd	Cardiff Bay
Caerdydd	Cardiff
CF10 4DQ	CF10 4DQ

## NHS (Indemnities) (Wales) Bill

**Inquiry by the National Assembly for Wales Health, Social Care and Sport Committee**

**Response from BMA Cymru Wales**

**15 October 2019**

### INTRODUCTION

BMA Cymru Wales is pleased to provide a response to the inquiry into the NHS (Indemnities) (Wales) Bill by the Health, Social Care and Sport Committee.

The British Medical Association (BMA) is an independent professional association and trade union representing doctors and medical students from all branches of medicine all over the UK and supporting them to deliver the highest standards of patient care.

### RESPONSE

As the representative body for GPs in Wales, representatives of the BMA's Welsh General Practitioners Committee have been part of the Welsh Government's Indemnity Stakeholder Reference Group (SRG), having lobbied for government action in this area to address the unsustainable rise in indemnity costs to GPs. This led to the launch of the GMPI scheme for future liabilities (FLS) from April 2019, and the Ministerial commitment to introduce an existing liabilities scheme (ELS) for claims prior to that date.

Our reading of the bill as laid is that it will introduce a regulatory regime which allows NHS Wales to cover existing liabilities via the introduction of a 'direct indemnity scheme', which will subsequently be described by Welsh Government through regulations and directions. This is subject to the successful conclusion of negotiations with the Medical Defence Organisations (MDOs) who currently cover these liabilities.

We are supportive of the Welsh Government's intention to introduce an ELS scheme through this course of action. Our main priority is ensuring that the created scheme does not put Welsh GPs at a disadvantage when compared to English colleagues, which could create a barrier to

recruitment and retention. We are heartened by the commitment in the Bill's explanatory memorandum to align the English and Welsh schemes as much as possible. As the representative body for Welsh GPs, we anticipate being involved in the development of the scheme, in the same manner as we were for the introduction of GMPI. We look forward to discussing this with Welsh Government officials and other partners.

It would not be appropriate at this stage to comment on discussions between Governments (Welsh and UK) and Medical Defence Organisations, therefore we will refrain from doing so.

We do not anticipate any unintended consequences for Welsh GPs from the bill as it stands.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. White', written over a light grey circular watermark.

**Dr Phil White**  
**Chair, GPC Wales**

17 October 2019

Dr Dai Lloyd AM  
Chair  
Health, Social Care and Sport Committee  
National Assembly for Wales

Dear Dr Lloyd,

## **National Health Service (Indemnities) (Wales) Bill**

Thank you for the opportunity to submit evidence with regard to the National Health Service (Indemnities) (Wales) Bill. The matter of indemnity cover has been a concern for our members and we have welcomed the recent engagement from Welsh Government to clarify aspects of the Future Liabilities Scheme (FLS). We hope that this is indicative of a partnership working approach with consistent lines of communication. While the proposed National Health Service (Indemnities) (Wales) Bill is a short proposal it would have been preferable if there had been a greater period of time in which our response could have been considered prior to submission. The bill was published on the 14th October, written evidence required by the 17th, and an oral evidence session on the 23rd.

The College agrees with the logic of the Bill and the necessity of it to enshrine in law the regulatory powers needed for the Welsh Government to set up and manage a scheme to directly indemnify providers of primary medical services. We agree with the points raised in the Exploratory Memorandum to expand the scope of the current powers and expand the range of bodies which may be included in the scheme.

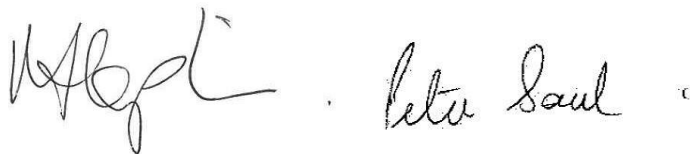
We welcome that the Bill will mean that Welsh Ministers, via the introduction of the ELS Regulations, are delivering on the commitment to introduce a state backed indemnity scheme for GPs in Wales. A policy the College had been advocating for.

We agree that there is a serious risk that if this Bill is not enacted that GPs in Wales may be at a disadvantage relative to GPs in England and GP recruitment and cross border activity could be adversely affected. This is a vital issue which must be considered whenever there is a policy change effecting the terms under which GPs work in Wales.

RCGP Wales is supportive of the National Health Service (Indemnities) (Wales) Bill. We would encourage Welsh Government to maintain their engagement with GP representative bodies. It is our view that while the FLS, which we appreciate is not part of this Bill, provides welcome cover against claims of medical negligence it could be enhanced or supplemented to better account for the whole remit of GP work including medical training and research.

Should you or the Committee wish to discuss any points raised in this response further, please do not hesitate to let us know.

Best wishes,

Handwritten signatures of Dr Mair Hopkin and Dr Peter Saul.

**Dr Mair Hopkin**  
**Joint Chair**  
**RCGP Wales**

**Dr Peter Saul**  
**Joint Chair**  
**RCGP Wales**

Royal College of General Practitioners Wales 4<sup>th</sup> Floor Cambrian Buildings Mount Stuart Square Cardiff Bay Cardiff CF10 5FL  
Tel: 020 3188 7755 Fax: 020 3188 7756 email: [welshc@rcgp.org.uk](mailto:welshc@rcgp.org.uk) web: [www.rcgp-wales.org.uk](http://www.rcgp-wales.org.uk)

Coleg Brenhinol Meddygon Teulu Cymru 4ydd Llawr Adeiladau Cambrian Sgwâr Mount Stuart Bae Caerdydd Caerdydd CF10 5FL  
Ffôn: 020 3188 7760 e-bost: [welshc@rcgp.org.uk](mailto:welshc@rcgp.org.uk) web: [www.rcgp-wales.org.uk](http://www.rcgp-wales.org.uk)

Patron: His Royal Highness the Duke of Edinburgh Registered charity number 223106



**GIG**  
CYMRU  
**NHS**  
WALES

Addysg a Gwella Iechyd  
Cymru (AaGIC)  
Health Education and  
Improvement Wales (HEIW)

Our Ref: DB/22/10/2019

Date: 22 October 2019

SeneddHealth@assembly.wales

Health Education and Improvement Wales  
Ty Dysgu  
Cefn Coed  
Nantgarw  
Cardiff  
CF15 7QQ

03300 585 005  
[heiw@wales.nhs.uk](mailto:heiw@wales.nhs.uk)

Dear Sirs,

**Re: Response of HEIW to the consultation in respect of the National Health Service (Indemnities) (Wales ) Bill (“Indemnities Bill”)**

To assist the Health, Social Care and Sport Committee (the Committee) in its undertaking of a consultation process in respect of the above Indemnity Bill, I am pleased to outline below the response of HEIW’s Board in respect of the matter.

Whilst being very supportive of the elements within the Indemnities Bill we confirm that the consultation is timely from HEIW’s perspective. This is because a possible gap has recently been identified in respect of the coverage provided by the Welsh Risk Pool indemnity for the education supervision provided by NHS GPS and Consultants.

**No current indemnity for the educational supervision provided by GPS and Consultants to medical trainees**

It has recently been brought to light that the indemnity provided by the Welsh Risk Pool does not provide cover for the educational supervision provided by GPs and Consultants to medical trainees.

This is an area of concern for HEIW as the lack of indemnity cover creates the risk that primary and secondary care workers will be reluctant to take on these essential supervisory roles.



We confirm that HEIW has recently written to the Welsh Risk Pool to request that they clarify the position in respect of the indemnity for this element of work undertaken by GPs and Consultants. The letter is attached for information at Appendix 1.

Given this we would respectfully request that the Committee ensures that the amended Section 30 of the National Health Service (Wales) Act 2006 enables the Welsh Risk Pool to provide indemnity cover for such educational supervision provided by GPs and Consultants to medical trainees.

### **Indemnity for the Education Provision provided by all NHS Staff**

The recent work undertaken by HEIW in respect of securing the Indemnity on education supervision provided for Consultants and GPs has also raises the broader question of ensuring that the Welsh Risk Pool indemnity also provides cover for all training undertaken by NHS staff.

Given this we would also respectfully request that the Committee ensures that the final amended version of the Act enables th Welsh Risk Pool to provide comprehensive cover for the all training supervision provided by NHS staff.

Yours faithfully,



Dafydd Bebb  
**Board Secretary**  
**HEIW**



GIG  
CYMRU  
NHS  
WALES

Addysg a Gwella Iechyd  
Cymru (AaGIC)  
Health Education and  
Improvement Wales (HEIW)

Our Ref: DB/21/10/2019

Date: 21 October 2019

Welsh Risk Pool

Health Education and Improvement Wales  
Ty Dysgu  
Cefn Coed  
Nantgarw  
Cardiff  
CF15 7QQ

03300 585 005

[heiw@wales.nhs.uk](mailto:heiw@wales.nhs.uk)

Dear Sirs,

## Re: Indemnity for the educational supervision

### Indemnity for educational supervision provided by GPs and Consultants to medical trainees

It has recently been brought to light that the indemnity provided by the Welsh Risk Pool may not provide cover for the educational supervision provided by GPs and Consultants to medical trainees.

This is a possible area of concern for HEIW as such a lack of indemnity cover will create the risk that primary and secondary care workers will be reluctant to take on these essential supervisory roles.

Given the above we would be grateful if the Welsh Risk Pool will clarify the position and confirm that its indemnity covers educational supervision provided by GPs and Consultants for medical trainees.

### Indemnity for the Education Provision provided by all NHS Staff

Consideration of the above matter has also raised the broader question of ensuring that the Welsh Risk Pool indemnity also provides cover for all educational supervision provided by NHS staff.

Given this could the Welsh Risk Pool also confirm that its indemnity covers educational supervision provided by all NHS trainers.

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• Chairman/Cadeirydd: **Dr Chris Jones**

• Chief Executive/Prif Weithredwr: **Alex Howells**

HEIW Headquarters/ Pencadlys HEIW, Ty Dysgu, Cefn Coed, Nantgarw, Cardiff, CF15 7QQ.

Telephone/Ffôn: 03300 585 005

Should you require any further information or background information then please do not hesitate to get in touch.

Yours faithfully,



Dafydd Bebb  
**Board Secretary**  
**HEIW**

# Eitem 4

Pwyllgor Iechyd, Gofal Cymdeithasol a Chwaraeon  
Health, Social Care and Sport Committee  
HSCS(5)-29-19 Papur 3 / Paper 3

## GP Indemnity in Wales

GPs are required by the General Medical Council to hold indemnity so that patients who are damaged by clinical negligence can claim and receive compensation. Before 1 April 2019, GPs had to fund their own indemnity and in order to do so almost all joined one of three medical defence organisations (MDOs). Approximately 43% of Welsh GPs are members of the Medical Defence Union (MDU), a mutual non-profit making organisation owned by its members who are principally UK doctors and dentists. In return for payment of an annual subscription members get access to the MDU's benefits of membership which include discretionary indemnity for clinical negligence claims, and other services such as assistance with complaints, disciplinary and criminal investigations arising from members' clinical work.

It is important to understand that claims against GPs are usually made 3-5 years after the incident that gave rise to them but can be made as many as 10, 20, 30 or more years later. For example, with some cancers if a GP misses a diagnosis it may be 4 or 5 years before symptoms are severe enough for the patient to seek further medical help and the cancer is diagnosed. The patient then has up to 3 years to sue. Claims on behalf of young children, for example where missed meningitis results in brain damage, may be brought much later and take many years to resolve, due to the need to understand how the child develops and what their needs will be. This means that indemnity for GPs is usually provided by the MDOs on an 'occurrence' basis so that GPs can seek assistance with and indemnity for the claim when it is made, even if the incident giving rise to the claim happened years before.

Over the last few years, indemnity has become increasingly unaffordable for GPs in England and Wales. This is not because of any fall in clinical standards, which remain high, but because of legal and economic factors that are beyond GPs' or MDOs' control. It was within the powers of the Westminster Government to address rising costs by changing the law, but it repeatedly failed to do so and the costs for GPs rose dramatically. Further, the Lord Chancellor decided to reduce the personal injury discount rate (used to calculate personal injury awards for future care) from March 2017 by an unprecedented 3.25%. The practical effect of this change was the doubling or trebling of high value claims where the cost of future health and social care is a major factor: for example, a claim against a GP that had been valued at £8.4 million was likely after the discount rate change to settle for £17.5 million.

This change applied in Wales and meant that GPs could no longer afford to pay for their own indemnity. In order to address this, on 14 May 2018 the Welsh Government announced plans to introduce a scheme for the state to provide clinical negligence indemnity for all contracted GPs in Wales. The scheme (the General Medical Practice Indemnity scheme – GMPI) was introduced on 1 April 2019 and GPs will no longer have to fund their own indemnity. Claims arising from any incidents that happened after that date would be handled and paid by the Welsh Government on behalf of GPs.

The Welsh Government also plans to put in place arrangements to meet GPs' liabilities for claims arising from incidents before 1 April 2019 – historic claims. However, when the state indemnity scheme started, the Welsh Government had not done so and Welsh GPs remain

responsible for their historic claims - claims that began before 1 April and claims that have yet to be made as a result of incidents that happened before that date. Because they are now state- indemnified for their 'future' claims, the MDU's Welsh GP members no longer pay the MDU a subscription for their indemnity. As the MDU relies on members' continuing subscriptions to help to meet their needs for historic claims, the new scheme has created a financial gap. The Welsh Government was aware there would be a gap if it did not address historic claims and, the MDU tried repeatedly to reach an agreement with it before 1 April to extend state indemnity to our Welsh GP members' historic claims. The inevitable and perverse effect of not reaching agreement is to reduce the funds available to assist GPs with the vastly escalating costs of indemnifying historic GP claims.

After 1 April we continued to try to find a solution with the Welsh Government but, regrettably, as no agreement was reached and our GP members are left with their historic liabilities, the MDU had to resort to judicial review proceedings which remain pending. The court requires the parties to try to settle the problem out of court, and ongoing litigation should not prevent this, but despite our attempts to open a constructive dialogue, the Welsh Government has not engaged in any meaningful discussions with the MDU.

## **The NHS (Indemnities) Bill**

On 16 July, the First Minister announced that an GP Indemnity Bill would be included in the legislative programme for the forthcoming sitting of the Assembly with the aim of ensuring 'all clinical negligence claims, whenever they are reported or incurred are covered', though no further details were forthcoming.

The National Health Service (Indemnities) (Wales) Bill was laid on the 14<sup>th</sup> October. The Bill will amend section 30 of the NHS (Wales) Act 2006, enabling Welsh Ministers to make regulations to establish an Existing Liability Scheme (ELS) to indemnify GPs for historic negligence claims.

The Welsh Government and the MDOs recognise that the establishment of this scheme will require negotiation and agreement, specifically around the transfer of assets required to meet historic liabilities. The Explanatory Memorandum associated with the Bill suggests that the current estimate of liabilities is in the region of £100m. To date, however, the Welsh Government has not entered substantive discussions with the MDU regarding the level of asset transfer that may be required.

Further, the Bill timetable suggest that the scrutiny of the legislation will be limited, and that the MDOs will not be asked to take part in the Stage 2 consultation. We would be happy to provide further briefing as required to highlight the complexity of the current system and provide further information about potential costs.

## **The MDU**

The MDU was, and still is, a mutual, non-profit making organisation owned by our members. We remain a company run by doctors for doctors. Few organisations that were around in 1885 still exist under the same ownership structure today. The MDU does – and we're proud of our rich history of guiding, supporting and defending our members.

**THE HEALTH, SOCIAL CARE & SPORT COMMITTEE OF THE  
WELSH ASSEMBLY**

**EVIDENCE SUBMISSION**

**FROM THE MEDICAL PROTECTION SOCIETY (MPS)**

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**The National Health Service (Indemnities) (Wales) Bill**

*Stage 1 Scrutiny*

18 October 2019

Opening remarks

1. The Medical Protection Society (MPS) welcomes this opportunity to make a brief submission to the Health, Social Care and Sport Committee of the Welsh Assembly – as it scrutinises the National Health Service (Indemnities) (Wales) Bill.
2. MPS welcomes the introduction of this Bill and considers it to be both a necessary and important piece of legislation.

About MPS

3. MPS is the world's leading protection organisation for doctors, dentists and healthcare professionals. We protect and support the professional interests of more than 300,000 members around the world. Membership provides access to expert advice and support together with the right to request indemnity for complaints or claims arising from professional practice.
4. Our in-house experts assist with the wide range of legal and ethical problems that arise from professional practice. This can include clinical negligence claims, complaints, medical and dental council inquiries, legal and ethical dilemmas, disciplinary procedures, inquests and fatal accident inquiries.
5. Our philosophy is to support safe practice in medicine and dentistry by helping to avert problems in the first place. We do this by promoting risk management through our workshops, E-learning, clinical risk assessments, publications, conferences, lectures and presentations.
6. We are not an insurance company. All the benefits of membership of are discretionary as set out in the Memorandum of Articles of Association.

## The legislation

7. As at paragraph 2, we believe this legislation is both necessary and important.
8. The Welsh Government introduced the General Medical Practice Indemnity (GMPI) earlier this year, which is responsible for claims arising out of NHS contracted work carried out by General Practitioners (GPs) - and other health professionals working in general practice in Wales - for adverse incidents that occurred on or after 1 April 2019.
9. Prior to the inception of the GMPI, GPs and other healthcare professionals in general practice in Wales had to make their own indemnity or insurance arrangements for this work. The vast majority of GPs did so through their membership of MPS or one of the other two medical defence organisations (MDOs).
10. Alongside the GMPI, the Welsh Government intends to create an Existing Liability Scheme (ELS). This would mean that the Welsh Government would also assume responsibility for all existing claims against GPs, as well as claims that are brought in the future, where the adverse incident date was before 1 April 2019 and related to treatment under an NHS contract. This would bring GPs in Wales into line with their hospital colleagues.
11. The legislation before the Committee is essential to the delivery of an ELS for GPs in Wales, and it accordingly amends s30 of the National Health Service (Wales) Act 2006 to grant Ministers the requisite powers.
12. It is important that the profession has clarity on their indemnity arrangements, and this Bill is an important component of achieving that clarity.
13. A similar ELS scheme has existed in England since April 2019. MPS were the first MDO to successfully reach agreement with the UK Government over an ELS for general practice members in England. As a result, the UK Government will assume responsibility for all existing claims against MPS general practice members in England, as well as claims that are brought in the future where the adverse incident date was before 1 April 2019 and related to treatment under an NHS contract. This means that these MPS members will be able to turn to a state-backed scheme for help no matter when in the future they become aware of a claim, or how much that claim eventually settles for.
14. We are eager for GP members in Wales to have parity with their English colleagues, and for this to be achieved as soon as possible. The passage of this legislation is essential for that to be achieved.
15. MPS is in advanced negotiations with the Welsh Government regarding the transfer of assets to an ELS scheme.
16. We are committed to ensuring a smooth transition to any new ELS scheme. When an ELS scheme was established in England, MPS reached an agreement with the UK Government which consists of us continuing to manage existing claims for an interim period. We would be keen to replicate this transitional arrangement with the Welsh Government.

17. Our members are at the heart of everything we do, and our driving priority is securing a positive outcome for GPs in Wales. No matter when in the future they become aware of a clinical negligence claim against them, we think the best outcome for them would be to be able turn to a Government backed scheme for assistance.
18. MPS will continue to play a vital role on behalf of our GP members – protecting their reputations by offering medicolegal advice and assistance for General Medical Council (GMC) proceedings, complaints, coroners’ inquests, disciplinary matters, criminal investigations and all other issues arising out of their professional practice. Members who add Claims Protection to their membership will also have the right to request indemnity for clinical negligence claims arising from any fee-paying or private work.

#### Conclusion

19. MPS commends this Bill to the Committee. We offer the legislation our full support and trust that it will successfully complete all its scrutiny stages in the Assembly.
20. Should the Committee have any further questions for MPS, or require further information, then we are at their disposal.

#### Contact

*Thomas Reynolds*  
*Policy & Public Affairs Manager*

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*Email: [Thomas.Reynolds@medicalprotection.org](mailto:Thomas.Reynolds@medicalprotection.org)*





**HEALTH, SOCIAL CARE AND SPORT COMMITTEE: CONSIDERATION OF THE  
GENERAL PRINCIPLES OF THE NATIONAL HEALTH SERVICES (INDEMNITIES)  
(WALES) BILL**

**MEMORANDUM FROM THE MEDICAL AND DENTAL DEFENCE UNION OF  
SCOTLAND**

1. The Medical and Dental Defence Union of Scotland (MDDUS) is a mutual Medical Defence Organisation (MDO) founded in 1902 by and for healthcare professionals, with an expert staff of doctors, dentists, lawyers and risk advisers who are leaders in the medico-legal and dento-legal field.
2. MDDUS provides its nearly 50,000 members throughout the UK access to professional indemnity and expert medico-legal and dento-legal advice. As the fastest growing not for profit mutual in the sector, we have a reputation for both value for money and operational excellence.
3. The MDDUS welcomes the Health, Social Care and Sport Committee's scrutiny of the proposed NHS (Indemnities) (Wales) Bill. The absence of proper public debate and consultation at all stages of recent policy development on state-backed indemnity has been an unfortunate feature of Government activity in both England and Wales to date. Private, separate discussion with individual stakeholders, whilst necessary, should have been in addition to, rather than a replacement for, such standard and desirable features of policy development.

**STATE-BACKED INDEMNITY FOR GPs – A MISSED OPPORTUNITY FOR REFORM**

4. MDDUS considers that the question of whether the State should pay directly for GP and other primary care team members' indemnity is, essentially, a public policy issue for Government and a contractual one for the profession.
5. As a mutual indemnifier, MDDUS recognises the impact of the required increases in indemnity costs on recruitment and retention of GPs in recent years. MDDUS is, however, dismayed at the process undertaken in the development and implementation of indemnity policy and, in particular, the distraction of effort from the more central issues facing the NHS and clinical negligence as a result.
6. The decision to move to state-backed indemnity arose, in large part, because of changes made to the Personal Injury Discount Rate (PIDR). The decisions to set the PIDR at minus 0.75 in 2017, and to increase this to just minus 0.25 in 2019 following the Lord Chancellor's review, are based on a widely criticised assumption that a rational investor would opt to receive a negative return. One clear result of these changes has been making the bringing of clinical negligence claims more attractive and hence potentially more expensive to the NHS. The failure of both the

Department for Health and Social Care and the Welsh Government to have any apparent impact on the Lord Chancellor's decision represents a significant failure of joined-up Government thinking on the main driver of rising clinical negligence claims and GP indemnity fees.

7. We contend that the focus of Government should have been to make changes to the tort of clinical negligence in medical malpractice to help restrain costs and remove the incentive to run cases which are less than well-founded. The evidence base for tort reform being successful in reducing cost to the health care system of such claims is well documented in Australia and the United States. The UK's three MDOs have individually, and at different times, put forward comprehensive proposals for change in this area; none of which have been pursued.
8. In the absence of such change, the shift of responsibility for Government funding claims is likely to lead to an increase in claims activity, given perceptions of Government's larger resources and, importantly, the fact that the rebuttal rate – i.e. those claims which are dismissed at nil cost – is significantly better in the industry than for Government.
9. MDDUS believes a further missed opportunity for reform is the very tentative nature of changes to the regime of fixed recoverable costs. Despite the then Secretary of State for Health calling for action in this area in mid-2015, changes have still not been put in place. The number of cases on which the proposed cap is to be set is at a level that, in our judgement, is more likely to lead to an increase in costs, rather than a decrease.
10. The decision to put state-backed indemnity in place was made without a full public consultation, and this has inhibited debate on these issues. We consider wider engagement on possible alternative approaches could, in the long term, have produced greater benefits for the NHS and the profession in the long-term. State backed indemnity as implemented simply shifts ever increasing liabilities between parties, and will commit a greater percentage of a finite health budget to fund these costs.

## **STATE-BACKED INDEMNITY FOR GPs – A FLAWED OPERATING MODEL**

11. A further problem is the operational model adopted for state-backed indemnity. We are dismayed that there was no consultation on the model to be adopted in either England or Wales and nor was any public procurement process undertaken.
12. We believe this failure is likely to lead to significant jeopardy for individual GPs as the state-backed monopolistic provider envisaged in both England and Wales will not have any responsibility to protect the professional standing of the doctor concerned in a claim. This will potentially increase the chances of the doctor being subject to calls for action and complaints to the General Medical Council. MDOs' offerings covered both claims management and this wider cover. The wilful destruction of this integrated service and the failure to at least offer GPs a meaningful choice of opting to retain it, (with a transfer payment for claims cover being made by Government to the relevant MDO) will, we believe, place the credibility of the scheme at risk in the medium-term.

13. Whilst relieving financial burdens on GPs therefore, we consider that the models adopted for delivery of the scheme are sub-optimal from the point of view of the taxpayer and the profession.

## **THE WAY FORWARD**

14. MDDUS accepts that these decisions have been made and are working with each of the respective Governments constructively to seek to ameliorate their potentially harmful impact.
15. In that regard, we have agreed an Existing Liability Scheme (ELS) transaction with the UK Government to transfer our existing GP liabilities to them. We remain in discussions with the Welsh Government on the same issue. Our position, as has been made clear on many occasions, remains that the ELS is a poor piece of public policy, as we do not need any form of public support to be able to give assurance to our existing GP members that we could meet all of their expected and estimated past liabilities. However, the Board of MDDUS has concluded that it is in the best interests of existing and potential members to make the transaction. This is especially so, given that the UK Government has proceeded with an ELS transaction with one of our competitors which would distort competition in the absence of a similar agreement with us.
16. MDDUS has developed GP Protection to continue to provide for our GP members and wider primary care team, the protection they previously enjoyed before the introduction of the Future Liabilities Scheme on the 1<sup>st</sup> April 2019. This provides a 24/7 helpline supporting on matters of ethics and other issues and representation and advice on complaints, disciplinary, regulatory, ombudsman, alleged criminal and inquest matters together with claims benefits for good Samaritan acts and non NHS activities.

## **THE CURRENT BILL**

17. Turning to the Bill itself, MDDUS does not wish to comment on any specific provisions. We think that it makes sense for the Welsh Government and Assembly to have the same decision-making scope on questions of medical negligence as is open to the UK Government and Parliament.
18. We trust that in future these new powers will be used in a way that has a far stronger evidence base, addresses the core rather than peripheral issues and engages properly with stakeholders to ensure optimal outcome for taxpayer, practitioner and the medical defence sector as a whole in a way that we fear will not be the case from the recent changes.

**MDDUS**  
**October 2019**



Llywodraeth Cymru  
Welsh Government

Ein cyf/Our ref MA-P/VG/2058/19

Cadeirydd  
Pwyllgor Iechyd, Gofal Cymdeithasol a Chwaraeon

Cadeirydd  
Cadeirydd y Pwyllgor Plant, Pobl Ifanc ac Addysg

16 Hydref 2019

Annwyl Gadeirydd,

Yn sgil eich diddordeb yn yr ymgynghoriad a datblygiad Pwysau Iach: Cymru Iach, roeddwn am roi gwybod i chi y bydd y strategaeth derfynol yn cael ei lansio ar 17 Hydref 2019.

Mae Pwysau Iach: Cymru Iach, sef ein strategaeth hirdymor i atal a lleihau gordewdra yng Nghymru yn gasgliad o safbwyntiau ein rhanddeiliaid, tystiolaeth ac ymchwil ryngwladol. Mae'r Strategaeth yn gynllun 10 mlynedd i leihau ac atal gordewdra ar gyfer pobl Cymru. Er mai fi yw'r Gweinidog sy'n arwain, mae'r cynllun hirdymor hwn yn mabwysiadu dull trawslywodraethol a thraws-sector o fynd i'r afael â gordewdra.

Mae gordewdra yn fater cymhleth, ac ni all y Llywodraeth na'r Gwasanaeth Iechyd ei ddatrys ar eu pennau eu hunain; mae'r dystiolaeth sydd ar gael yn awgrymu mai gweithio mewn partneriaeth ar draws systemau cyfan yw'r unig ffordd o sicrhau newid cadarnhaol. Yn unol â neges Cymru Iachach, dyma'r tro cyntaf y mae Llywodraeth Cymru wedi mabwysiadu dull cydlynol o fynd i'r afael â gordewdra, ac mae'r amrywiaeth o gynigion yn dangos sut y gellid addasu rhaglenni a dulliau presennol, gan atgyfnerthu trefn lywodraethol ac arweinyddiaeth.

Mae pedair thema'r Strategaeth yn dangos y dull system gyfan y bydd ei hangen er mwyn mynd i'r afael â gordewdra, gan gydnabod bod yr amgylchedd ffisegol a bwyd yn dylanwadu ar ein dewisiadau. Maent yn cynnwys ystyried sut y gellir dod ag ymyriadau mewn meysydd fel trafnidiaeth, cynllunio, y blynyddoedd cynnar, cymunedau a gwasanaethau iechyd ynghyd i ddatblygu dull cydlynol.

Bydd 5 cynllun cyflawni dwy flynedd o hyd yn cyd-redeg ag oes y strategaeth. Bydd y cynllun cyflawni cyntaf ar gyfer 2020-2022 yn cael ei gyflwyno yn gynnar yn 2020, ac yn rhoi manylion yr union gamau gweithredu a gynigir er mwyn gweld newidiadau mewn ymddygiadau ac arferion y boblogaeth, sy'n cael eu hannog a'u hyrwyddo gan ein lleoliadau a'n hamgylchedd, a thrwy arweinyddiaeth leol a chenedlaethol. Dros y ddwy flynedd nesaf, byddwn yn dechrau datblygu polisi a deddfwriaeth, a byddaf yn cyflwyno cyllid newydd i

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:  
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Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

Tudalen y pecyn 52  
We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

helpu i gyflawni ein hamcanion. Bydd hyn yn ein galluogi ni a'n partneriaid i ganolbwyntio'n fwy ar ataliaeth ac ymyrraeth gynnar drwy'r holl systemau fel rhan o'n huchelgais i adeiladu Cymru iachach. Bydd y strategaeth yn helpu i sicrhau ein bod yn gallu denu cymaint o gyllid ychwanegol â phosibl a chyfleoedd i ysgogi newid ymhlith ein partneriaid, i weld newid yn y ffordd rydym yn defnyddio cyllid i sicrhau ataliaeth.

Mae cefnogaeth gref i'r cynigion rydym wedi'u hamlinellu yn y strategaeth, ynghyd ag egni a chefnogaeth o fewn ein cymunedau tuag at newid cadarnhaol mewn ffordd o fyw. Rydw i am sicrhau bod ein strategaeth yn datgloi'r potensial hwn. Rwy'n ddiolchgar iawn am y gefnogaeth trawsbleidiol a'r ddealltwriaeth o bwysigrwydd y mater hwn. Rydw i'n bwriadu gwneud datganiad pellach ar y Strategaeth yn y siambr yr wythnos nesaf.

Yn gywir,



**Vaughan Gething AC/AM**

Y Gweinidog Iechyd a Gwasanaethau Cymdeithasol  
Minister for Health and Social Services

## Dai Lloyd AC

Cadeirydd y Pwyllgor Iechyd, Gofal Cymdeithasol a Chwaraeon

18 Hydref 2019

Annwyl Dai,

### Hawliau Plant yng Nghymru

Rwy'n ysgrifennu atoch mewn perthynas ag ymchwiliad y Pwyllgor Plant, Pobl Ifanc ac Addysg i **hawliau plant yng Nghymru**.

Ddeng mlynedd ar hugain ers cychwyn y broses o lofnodi Confensiwn y Cenhedloedd Unedig ar Hawliau'r Plentyn (UNCRC), mae'r Pwyllgor yn cynnal ymchwiliad byr er mwyn adolygu effaith Mesur Hawliau Plant a Phobl Ifanc (Cymru) 2011.

Roedd Mesur 2011 yn gosod dyletswydd ar Weinidogion Cymru i roi sylw dyledus i'r Confensiwn a'i brotocolau dewisol. O ganlyniad i'r Mesur, dylai Llywodraeth Cymru sicrhau bod unrhyw ddeddfwriaeth, polisiau neu benderfyniadau sy'n effeithio ar blant yn cydymffurfio â'u hawliau dynol.

Cafodd y Pwyllgor 26 o gyflwyniadau fel rhan o'i **ymgyngoriad cyhoeddus**, a gaeodd ym mis Medi 2019. Roedd y Pwyllgor hefyd am geisio barn plant a phobl ifanc drwy ei **adnodd "Cyfarfod mewn Blwch"**. Nod yr adnodd hwn oedd grymuso pobl ifanc i rannu eu barn ar hawliau plant, a hynny gan ddefnyddio cynllun gwerau a oedd wedi'i lunio'n arbennig fel y gallai gweithwyr ieuenctid, athrawon ac arweinwyr grŵp ei ddefnyddio. Siaradodd y Pwyllgor yn uniongyrchol â phlant mewn nifer o ddigwyddiadau ymgysylltu ledled Cymru, a chymerodd dystiolaeth hefyd gan ystod o randdeiliaid yn ei gyfarfod ar **16 Hydref 2019**.

Daeth materion iechyd i'r amlwg mewn nifer o'r cyflwyniadau ysgrifenedig a gafwyd gan y Pwyllgor, a hynny'n gysylltiedig â'r eitem a ganlyn yng Nghylch Gorchwyl y Pwyllgor: i ba raddau y mae Llywodraeth Cymru wedi ceisio sicrhau bod ei ddyletswyddau o fewn y Mesur yn cael eu cyfleu yng ngwaith y cyrff cyhoeddus y mae'n eu cyllido gan gynnwys awdurdodau lleol a chyrrff y GIG. Felly, fel rhan o'r broses o gasglu tystiolaeth, cymerodd y Pwyllgor dystiolaeth ar 16 Hydref gan gynrychiolwyr o Ysbyty Plant Cymru Arch Noa.

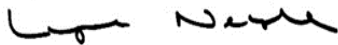
O ystyried pa mor berthnasol yw'r gwaith hwn i'ch cylch gwaith chi, rwy'n ysgrifennu atoch i'ch hysbysu am y ffaith y bydd y Dirprwy Weinidog Iechyd a Gwasanaethau Cymdeithasol yn ymddangos gerbron y Pwyllgor yn ystod ei gyfarfod ar 6 Tachwedd.



Os ydych chi, neu unrhyw Aelod arall o'ch Pwyllgor, am gael rhagor o wybodaeth am ein gwaith, neu os oes gennych ddiddordeb mewn cymryd rhan yn y cyfarfod dan sylw, dylech gysylltu â Chlerc y Pwyllgor.

Wrth gwrs, byddwn yn rhoi'r wybodaeth ddiweddaraf i chi a byddwn yn rhannu unrhyw gynnyrch ysgrifenedig â chi.

Yn gywir,



**Lynne Neagle AC**  
**Cadeirydd**

