



## **NHS and Social Care Recognition Scheme**

### **Appeals process for social care workers**

Local authorities administer payments for the scheme on behalf of Welsh Ministers. This process is applicable where a claim has been rejected by the local authority. The appeals process is a two-stage process.

#### **Stage 1 - Reconsideration**

- The employee/agency worker requests a reconsideration of the decision of the local authority
- A form is completed identifying which of the eligibility criteria the person believes makes them eligible.
- The reconsideration is undertaken by the local authority. We will issue an advisory note so local authorities take a consistent approach to this stage.
- If an error has been made and/or the employee/agency worker is identified as eligible, the local authority arranges for the payment
- If the local authority continues to determine the worker as ineligible, the local authority will send a letter to the person indicating the rationale for the decision (template provided). The individual is informed they can submit a request to go to Stage 2.
- If the local authority is unclear, due to complexity/individuality of circumstances, they will refer to Stage 2 and inform the individual worker.
- **Timescale for outcome of Stage 1 – 10 working days.**

#### **Stage 2 – Welsh Government Appeals Panel**

- The Welsh Government Panel considers appeals following completion of the Stage 1 reconsideration, where people wish to pursue. The local authority may refer to the Panel itself, where it does not feel able to make the decision due to complexity/uncertainty.
- The Scheme Coordinator will log referrals and monitor timescales and process.
- The Terms of Reference of the Appeals Panel stipulates it cannot change the eligibility criteria of the scheme.

- There will be a clear rationale recorded for each decision and a template letter sent to the individual worker and copied to their employer and the relevant local authority
- The Scheme Coordinator will disseminate learning to local authorities of decisions made and coordinate amends to FAQs accordingly.
- **Timescale for outcome of Stage 2 – 10 working days from outcome of Stage 1.**

**Decision-making:** The Appeals Panel has delegated authority from Welsh Ministers to take decisions on appeals. The Chair will seek for the Panel to reach consensus. Where the Chair takes the view the Panel cannot make a confident decision, the matter will be referred to Welsh Ministers.

Welsh Ministers will make a decision subsequent to gaining further advice and information necessary. This process is likely to be delegated to a Deputy Director within the Civil Service.

**Composition of the Appeals Panel:** The Appeals Panel is effectively a task and finish group where Ministers can make appointments without consultation. No remuneration will be made. The Panel comprises Welsh Government representative, local authority representative, Wales TUC representative, provider representative and Chair. The Panel can seek legal advice from WG Legal Services.

All representatives will be asked to declare conflicts of interest and absent themselves from hearing those appeals. Representatives will have identified colleagues who will cover in such circumstances.

**Frequency of Panels:** It is difficult to predict demand but timely decision making is important to avoid unnecessary wait time for those involved. We propose weekly Panels. These will be cancelled where there is no business.

**Timescale of Panels:** Date for the first Panel is dependent on date when first payments are made. We cannot predict increase or decrease of referrals to Panel over time as payments will continue to be made over a number of months.

## **Resource considerations**

**Scheme Coordinator:** Responsibilities:

- Monitors dedicated mailbox which is single point of contact for local authorities/health boards
- Receives and tracks referrals
- Organises Panels/sends out advance papers
- Sends out decision letters
- Disseminates learning and developments to local authorities and updates FAQ's/guidance for consistency of decision-making.
- Manages direct correspondence from individuals about the process – redirecting to the local authority.

**Chair:** He/she will

- be an external individual, who is not employed by Welsh Government, a local authority or a relevant social care provider
- have an understanding of social care and how care provision is structured
- have skills and experience of participating in and chairing multi-disciplinary meetings
- be confident in conducting Panels using Microsoft Teams
- not have an identifiable conflict of interest
- have good professional communication and organisational skills, understanding of confidentiality issues and is committed to the promotion of equality through their work.

**Further steps**

- In very exceptional circumstances, the Panel may indicate it cannot make a decision within the terms of the existing guidance and an exception or amendment to the guidance will be considered by Welsh Ministers.
- A person who continues to be discontent with the decision-making on their payment may request a Judicial Review.