



Claims Policy

Clinical Negligence, Liabilities to Third Parties and Property Expenses Scheme Claims

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The Trust will not tolerate unlawful discrimination on the grounds of the protected characteristics of: age, disability, gender reassignment, race, religion/belief, gender, sexual orientation, marriage/civil partnership, pregnancy/maternity. The Trust will not tolerate unfair discrimination on the basis of spent criminal convictions, Trade Union membership or non-membership. In addition, the Trust will have due regard to advancing equality of opportunity between people from different groups and foster good relations between people from different groups.

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Dissemination Requirements	The Claims Policy and associated policies and procedures (such as Serious Incidents Policy, Management of Incidents Policy, Investigation Guide and Variations in Clinical Practices Policy) must be considered in the drafting and review of all the Trust's policies and procedures covering employment, operational and clinical practice, financial and corporate controls.
Checklist Completed	Yes

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1 Introduction

This document sets out a systematic procedure for handling claims and seeks to ensure that any healthcare governance issues that arise are dealt with openly, sensitively, promptly and efficiently so that the cost of further investigation, if and/or when handled by a panel of solicitors, is minimised. The Trust's audit programmes and reviews of clinical activities will recognise and apply lessons to be learnt from claims/risk management experience locally and beyond. This policy, therefore, forms an integral part of the Trust's arrangements for risk management and clinical governance.

This guidance will be reviewed every two years or sooner, if the relevant legislation or guidelines change.

2 Purpose

The Trust recognises that effective risk management, complaints handling and clinical monitoring arrangements are essential to minimise the potential for claims against the Trust and to minimise the financial impact on the Trust from such litigation. Therefore this document sets out a systematic procedure for handling claims involving third parties such as the National Health Service Litigation Authority (NHSLA), solicitors, claimants and the coroner. This procedure is in line with best practice, Liabilities to Third Parties Scheme (LTPS) and Clinical Negligence Scheme for Trusts (CNST) reporting guidelines issued by the National Health Service Litigation Authority (NHSLA).

All future claims (excluding vehicle insurance claims) fall within this policy and NHSLA authorisation is required before admissions may be made and monetary compensation may be offered. In the absence of such authorisation, the NHSLA will not reimburse Trusts either for the compensation awarded or for any of the costs generated.

3 General Issues Surrounding Claims Handling

3.1 Definition of a claim and the NHSLA Schemes relevant to the organisation

A clinical negligence claim is defined as:-

'Allegations of clinical negligence and / or a demand for compensation made following an adverse clinical incident resulting in personal injury, or any clinical incident which carries significant litigation risk for the Trust.'

Such claims are covered by the Clinical Negligence Scheme for Trusts (CNST).

A non-clinical or property claim is defined as:-

'A demand for compensation made following an adverse incident resulting in damage to property and / or personal injury'

Such claims are covered by the Liabilities Third Parties Scheme (LTPS) and Property Expenses Scheme (PES).

These definitions include complaints leading to claims, notification of serious adverse events, incident reports generated by risk management processes, any incidents of which represent a significant litigation risk and requests for disclosure of medical records. Claims involving vehicles leased/owned by the Trust are covered separately by the Trust's Motor Vehicle insurers.

3.2 Who may make a claim?

Any person (this includes their next of kin, guardian, executor or legal representative) who has incurred personal injury or financial loss as a result of an adverse incident involving the Trust may make a claim against the Trust.

3.3 Triggers for invoking the claims procedure

The claims procedure may be invoked by any one of the following four possible situations:

1. Serious incidents, those revealing a possible breach of duty leading to a potential large value claim (damages over £ 250,000).
2. Potential claims arising from complaint investigation where the response indicates the possibility of a claim with a significant litigation risk, regardless of value. The Patient Services Department will refer the file to the Corporate Services Manager in order to seek guidance and legal advice in preparing the response in accordance with the Complaints Policy. All letters which state that legal action is being taken, or that include a claim for compensation, must be forwarded immediately to the Corporate Services Manager who will be the responsible officer.
3. Requests for disclosure of records where such records indicate the possibility of a claim with a significant litigation risk, regardless of value.
4. Letters of claim as the first indication of any action. The following time limitations apply: (See Section 3.11 for limitation for Human Rights claims)
 - It is received within 3 years of the date of the adverse incident.
 - In the case of a minor within 3 years of the date of the adverse incident or 3 years from their 18th Birthday whichever is the later.
 - In the case of a death (or 'patient' becoming corpus mentus) within 3 years of the date of the adverse incident or 3 years from the date of decease (or 'patient' becoming corpus mentus) whichever is the later.

Where a 'Letter of Claim' relates to an incident that has not been previously recorded and / or internally investigated and evaluated by the Trust, the Corporate Services Manager will instigate immediate action for the incident to be investigated and an incident report to be produced (see Section 8 – Investigation and Root Cause Analysis). The legal timescales applied under the Pre-Action Protocols endorse the urgency of the incident investigation.

3.4 Delegation limits

No Delegation limits apply as all claims are the direct responsibility of the Director of Finance.

3.5 Timescales and procedures for the exchange of information with other parties

Requests for disclosure of medical records to be processed within **40 days** of receiving a properly authorised request.

Report relevant cases to the NHSLA within **2 months** of request for records or sooner if event is serious.

All Part 36 offers to be notified to the NHSLA **immediately**.

All Letters of Claim relating to the Clinical Negligence Scheme for Trusts or the Property Expense Scheme to be notified to the NHSLA **within 24 hours of receipt**.

All Letters of Claim relating to the Liability to Third Parties Scheme for Trusts to be notified to the NHSLA **immediately on receipt of the necessary documentation to comply with the NHSLA Disclosure List**.

Acknowledge Letters of Claim for Clinical Negligence Scheme for Trusts within **14 days**.

Acknowledge Letters of Claim for Liability to Third Parties Scheme for Trusts within **21 days**.

Detailed response (produced by the NHSLA) to the claim due within **3 months** from formal acknowledgement of Letter of Claim.

All legal proceedings to be notified **immediately** to the NHSLA.

3.6 Confidentiality and Requests for Disclosure of Records

When a case for disclosure is made without a claim, the Corporate Services Manager may seek the reasons for the request and should complete a preliminary analysis (see Section 3.8.1 – Preliminary Analysis). However it should be noted that the individual to whom the data refers, has an absolute right to disclosure under Section 7 of the Data Protection Act and the NHS Code of Confidentiality, unless it is considered that disclosure would :-

- a. Reveal information likely to cause serious harm to the physical or mental health of the patient or any other individual, or
- b. Reveal information relating to or provided by an individual other than the patient (or health professional involved in the care of the patient) who could be identified and has not given consent. (E.g. in paediatric or psychiatric cases)

Under the Data Protection (Subject Access Modification) (Health) Order 2000, the Corporate Services Manager has a duty to take advice from the 'appropriate healthcare professional' before forming an opinion as to what should be excluded from disclosure.

The records of deceased patients are governed by the Access to Health Records Act 1990. Applications for copies should only be granted to personal representatives of the estate or to someone having a claim arising out of the death. There are additional provisions for withholding disclosure, e.g. where the deceased specifically prohibited this or when information was provided in the expectation that it would not be disclosed to the applicant.

These cases may be referred to the Corporate Services Manager who may seek legal advice if required.

The Corporate Services Manager will continue to share information emerging from claims but this will be limited to staff directly involved in the case including supporting staff and former staff in the litigation process.

All such distribution of records will be recorded in the appropriate file.

3.7 Support mechanisms for patients/carers and staff

The Trust recognises that help and support are required by those involved in any allegations. This is fully detailed in the Trust's Being Open Policy and support staff policies.

The Trust is able to provide this policy in large print, Braille and other language versions on request.

3.8 Clinical Negligence Scheme for Trusts (CNST)

Indication of potential claims may be in various forms and tend to fall into the following categories:

- a) Serious incidents, those revealing a possible breach of duty leading to a potential large value claim (damages over £ 250,000) must be reported as soon as possible, usually before a claim is made. Such incidents should be thoroughly investigated and investigations must be open and subject to scrutiny (see Section 8 – Investigations and Root Cause Analysis).
- b) Incidents which have the potential to become a group action involving a number of patients.

- c) Claims arising from the alleged negligence or serious professional misconduct of a clinician or team which has affected a cohort of patients.
- d) Claims arising from complaint investigation where the response indicates the possibility of a claim with a significant litigation risk, regardless of value. In such cases, it is essential to submit to the NHSLA the letter of complaint and any formal correspondence in response. Where an independent review panel has been established, their report and any expert opinions provided at the convening or panel stage should also be provided.
- e) Requests for disclosure of records where preliminary analysis indicates the possibility of a claim with a significant litigation risk, regardless of value. First notification/reporting must occur as soon as the preliminary analysis has been completed but not later than two months after the request for disclosure.
- f) Letter of Claim as the first indication of any action. This indicates that the formal legal process has commenced and a formal response is required to the allegations within three months, providing the letter complies with the Pre-Action Protocol for the Resolution of Clinical Disputes. The Corporate Services Manager should not give any indication that it is being treated as Protocol-compliant, however they should acknowledge the letter and identify that the NHSLA will be dealing with the claim.

The preliminary analysis will be undertaken by the Corporate Services Manager on receipt of any of the above (see Section 3.8.1 – Preliminary Analysis).

The Corporate Services Manager must ensure that any matter falling within (a) – (f) above is reported to the NHSLA and will ensure that the following documentation is provided to the NHSLA:

1. Covering letter supported by the preliminary analysis
2. A completed CNST claim form
3. Copies of correspondence from the claimant's solicitor or the patient (including Letter of Claim)
4. Copies of comments from clinical staff obtained as part of the preliminary analysis
5. Where relevant, the report of the investigation of any adverse incident, or the formal response by the Chief Executive to a letter of complaint
6. Any relevant Trust policy or protocols

Additionally the NHSLA must be informed with an early notification where the following features arise once a claim has been submitted:

- MP involvement
- Media attention
- Human Rights issues
- Multi-party actions
- Multiple claims from a single cause
- Novel, contentious or repercussive claims

The NHSLA will liaise with the Trust and agree how the further investigations will take place. The NHSLA may conclude that panel solicitors should be instructed and will do so directly but in collaboration with the Trust.

The NHSLA or their solicitors will continue to advise the Trust in advance of conferences with Counsel and court hearings. Trust managers will continue to sign Defences and other relevant pleadings because the Trust, and not the NHSLA, will remain the legal Defendants to litigation.

Where court hearings are likely to generate media interest, NHSLA will agree with the Trust beforehand a press release or position to be adopted.

NHSLA will issue a closure document to Trusts at the end of each claim which will include inter alia a breakdown between damages, claimant costs and defence costs. Risk management lessons to be learned will be advised as and when such issues are identified during the course of a claim.

3.8.1 Preliminary Analysis

A brief examination of the evidence immediately available will be made, which needs to be tested against the legal criteria of breach of duty and causation, to see if there is a realistic prospect of a claim being successful. Where an incident report or complaint exists, this will usually provide sufficient information to form a judgement. Where an incident report does not exist, the Patient Care Record(s) should be scrutinised carefully and an appropriate health professional consulted.

Preliminary analysis should be structured and contain the following sub headings:-

Synopsis and Chronology

A brief outline of the main events including details of the main parties involved.

Care Management Problems

All events where care deviated beyond procedures/protocols.

Breach of Duty

Record those case management problems leading to harm and make a direct response to specific allegations made in the request for records.

Causation

Harm that has directly led to the loss of amenity, pain and suffering.

Quantum

The Corporate Services Manager should estimate this on the basis of information known at the time. It should represent a best guess of the probable cost to the defendant at the time of resolution and should incorporate figures for both claimant and defence legal costs. Advice should be sought from the General Manager Patient Services and the NHSLA.

Claimant's Funding

Public, Private, CFA.

Risk Management Implications

This should include what can be learned for the future from the events in question and who has been charged with this responsibility.

Action Plan

The next steps recommended and should also include an assessment of the litigation risk:

Low: where there is no liability on the part of any party to the claims or allegations of negligence are not causative of the outcome alleged (25% liability)

Medium: where the likelihood of the claimant's success is equivocal and there is a need for further investigation (50% liability)

High: where the claim is viewed as a likely settler or where there has already been an adverse expert opinion (75% liability)

3.9 Liabilities to Third Parties Scheme (LTPS)

The Corporate Services Manager is required to report claims upon receipt of a formal Letter of Claim where the total cost of the claim will approach or exceed the Scheme deductible, or the Trust's excess.

The standard excesses applying under LTPS are:-

- £10,000 Employers Liability claims
- £3,000 Public Liability claims

The Corporate Services Manager should take into account an assessment for the claimants' legal costs and any defence costs, when deciding whether a claim is likely to result in a total expense approaching or exceeding the applicable excess.

Note that ex-gratia settlements offered by the Trust are, by definition, not payments based upon legal liability and are therefore not reimbursable under LTPS. Therefore, in the event of the Trust making such a payment the total cost of the settlement will be borne by the Trust.

Additionally the NHSLA must be informed with an early notification particularly where the following features arise:

- Fatal Incidents
- MP involvement
- Media attention
- Human Rights issues
- Multi-party actions
- Multiple claims from a single cause
- Novel, contentious or repercussive claims

On receipt of a Letter of Claim the Corporate Services Manager will acknowledge the letter within 21 days, indicating that the matter will be dealt with by the NHSLA. All claims must be reported to the NHSLA and must include the following documentation:

- Covering letter indicating a new claim is enclosed
- Completed LTPS Report Form
- Completed LTPS Summary Form
- Any prior correspondence
- Any reports or copies of comments made during investigation of the incident
- A completed NHSLA Disclosure List, indicating which documents are enclosed by means in the appropriate box. For every Workplace claim the first page of the 'NHSLA Disclosure List' must be completed, together with the appropriate page relating to the specific type of Workplace claim.

Claims will not be accepted into the Scheme without the necessary documents. Where no 'List' and documents are attached the NHSLA will 'hold' the claim pending receipt of these papers. If papers are not forthcoming within one month of the first receipt of papers the NHS Litigation Authority will reserve the right to reject the claim.

The Corporate Services Manager should also report any serious adverse incidents resulting in a significant litigation risk that are flagged up through the incident reporting system, complaints process or risk management process.

The NHSLA will liaise with the Trust regarding the information submitted and any subsequent investigation required. The NHSLA may decide to instruct solicitors and will do so directly but in collaboration with the Trust.

The NHSLA or their solicitors will continue to advise the Trust in advance of conferences with Counsel and court hearings. Trust managers will continue to sign Defences and other relevant pleadings because the Trust, and not NHSLA, will remain the legal Defendants to litigation.

Where court hearings are likely to generate media interest, NHSLA will agree with the Trust beforehand a press release or position to be adopted.

NHSLA will issue a closure document to Trusts at the end of each claim which will include inter alia a breakdown between damages, claimant costs and defence costs. Risk management lessons to be learned will be advised as and when such issues are identified during the course of a claim.

3.10 Property Expenses Scheme (PES)

The Trust is required, immediately, to report incidents or claims where the total cost of the claim will approach or exceed the Scheme deductible, or the Trust's excess.

The Corporate Services Manager should take into account an assessment for the claimants' legal costs and any defence costs, when deciding whether a claim is likely to result in a total expense approaching or exceeding the applicable excess.

Note that ex-gratia settlements offered by the Trust are, by definition, not payments based upon legal liability and are therefore not reimbursable under PES. Therefore, in the event of the Trust making such a payment the total cost of the settlement will be borne by the Trust.

Additionally the NHSLA must be informed with an early notification particularly where the following features arise:-

- MP involvement
- Media attention
- Human Rights issues
- Multi-party actions
- Multiple claims from a single cause
- Novel, contentious or repercussive claims

All claims reported to the authority must include the following documentation:

- NHSLA RPST Form
- The Letter of claim
- All documents relating to the type of claim being reported.

The NHSLA will liaise with the Trust regarding the information submitted and any subsequent investigation required. The NHSLA may decide to instruct solicitors and will do so directly but in collaboration with the Trust.

The NHSLA or their solicitors will continue to advise the Trust in advance of conferences with Counsel and court hearings. Trust managers will continue to sign Defences and other relevant pleadings because the Trust, and not the NHSLA, will remain the legal Defendants to litigation.

Where court hearings are likely to generate media interest, NHSLA will agree with the Trust beforehand a press release or position to be adopted.

NHSLA will issue a closure document to Trusts at the end of each claim which will include inter alia a breakdown between damages, claimant costs and defence costs. Risk management lessons to be learned will be advised as and when such issues are identified during the course of a claim.

3.11 Claims under the Human Rights Act 1998

On receipt of a Letter of Claim under the Human Rights Act 1998 the Trust is required to report this to the NHSLA together with the following documentation:

- Completed CNST Form
- Details of any previous correspondence with the solicitors
- Details of any incident/complaint file

The Trust will liaise with the NHSLA to provide them with the information required and will inform the Communications Department due to the potential for media interest.

The NHSLA or their solicitors will continue to advise the Trust in advance of conferences with Counsel and court hearings. Trust managers will continue to sign Defences and other relevant pleadings because the Trust, and not the NHSLA, will remain the legal Defendants to litigation.

NHSLA will issue a closure document to Trusts at the end of each claim which will include inter alia a breakdown between damages, claimant costs and defence costs. Risk management lessons to be learned will be advised as and when such issues are identified during the course of a claim.

4. Duties within the organisation

4.1 Trust Board

The Board will receive assurance, based on sufficient evidence, that internal controls are in place, operating effectively and objectives are being achieved through the Audit Committee and the Quality Risk Assurance Committee together with the minutes of both committees.

4.2 Chief Executive

The Chief Executive has overall responsibility for ensuring that all claims are dealt with effectively and efficiently. The Chief Executive has delegated day to day responsibility for claims management to the Director of Finance.

4.3 Designated board member

The Director of Finance is the designated board member responsible for compliance with the claims procedure(s). The Director of Finance is responsible for managing effective claims handling on behalf of the Board and the Chief Executive.

4.4 Quality Risk Assurance Committee

The Quality Risk Assurance Committee is authorised by the Board to review risk and governance strategies, review and approve policies and procedures associated with risk and governance and recommend them to the Board for approval. The Committee has overall responsibility for the claims management and will receive a summary report every six months. The Committee will also receive reports from:

- organisation groups established to review and manage risk and governance issues
- authors of any reports summarising identified risks with the action taken to mitigate them.

4.5 Risk Management Group

The Risk Management Group (RMG) is responsible for ensuring that policies, systems and processes are effective in the management of all risks within the Trust and to ensure that appropriate follow up action is taken and learning is disseminated. The RMG will receive a detailed trends analysis report on all actual or potential claims on a bi-monthly basis.

4.6 Clinical Audit and Patient Experience Group (CAPE)

The Clinical Audit and Patient Experience Group will receive bi-monthly feedback from the Learning Group in relation to themes and trends that have been identified across complaints, PALS, claims, incidents and Serious Incidents. The CAPE Group will then establish task and finish groups and implement action plans in relation to these areas.

4.7 Learning Group

The Learning Group will meet on a bi-monthly basis where the members will identify themes and trends across incidents, Serious Incidents, claims, complaints and PALS. These will then be reported to the Clinical Audit and Patient Experience Group for further action.

4.8 Senior management

The responsibility for the management of all claims including clinical negligence, personal injury (employee or third party,) rests with the Director of Finance and the Corporate Services Manager. Claims will be managed to ensure that the risk management process takes proper account of the lessons to be learnt from such claims. Claims handling will be undertaken by the Clinical Quality Directorate within the Trust according to the nature of the claim, i.e.

- (a) Clinical negligence: Corporate Services Manager (with assistance from the General Manager Patient Services and the Trust's Medical Director)
- (b) Personal Injury: Corporate Services Manager (with assistance from the General Manager Patient Services and the Director of Finance).

4.9 General Manager Patient Services

The General Manager Patient Services is responsible and accountable for the effective management of the claims and litigation service for the Trust.

4.10 Corporate Services Manager

The Corporate Services Manager will be responsible for the co-ordination and administration of all CNST and RPST claims across the Trust. The Corporate

Services Manager will participate in the assessment of potential claims as revealed by the incident reporting system and requests for access to medical records, in accordance with the requirements of the NHSLA.

4.11 Investigating managers

The role and the investigation to be undertaken by the appointed senior manager are described within Investigation Guidance - Investigation of incidents, complaints and claims.

4.12 Role of clinicians/ specialist advisors

The role and the investigation to be undertaken by the appointed clinicians/specialist advisors are described within Investigations Guidance - Investigation of incidents, complaints and claims.

5 Link with incident management and complaints management

The General Manager Patient Services through the Corporate Services Manager ensures that there is effective communication between claims handling, complaints and incident reporting within the Trust. This ensures that any associated risks are managed effectively and avoids duplication of effort. In recognition of this there are clear linkages between the incident, complaints and risk policies and recording systems.

6 Internal Consultation, Approval and Ratification Process

6.1 Policy Approval Process and Ratification Process

The Trust's Claims Policy, in accordance with the Policy for the Development and Management of Procedural Documents, will be reviewed and approved by the Quality Risk Assurance Committee.

7 Liaison with third parties

The importance of external agencies in the claims investigation and handling process is recognised by the Trust. The Corporate Services Manager, in association with the General Manager Patient Services, appropriate Director(s) and senior manager(s) to the claim, will ensure that all relevant external agencies are contacted and briefed on their required involvement in a timely and appropriate manner during the claims investigation and handling process.

Agencies that will become involved in claims investigation and handling process are the National Health Service Litigation Authority, solicitors acting on delegated authority from the National Health Service Litigation Authority and the claimant's solicitors.

Agencies that may become involved in the process, whilst not exhaustive, will include, recognised experts in the testing of any associated equipment and/or substance, Local Counter Fraud Specialist, Special Health Authorities, Strategic Health Authorities, other NHS Trust's, other local emergency services, local authorities or the Trusts clinical / non-clinical solicitors and may include communication with the Coroner.

It is particularly important to consider the involvement of these agencies at each stage of the investigation process and especially when preparing to make recommendations for the outcome of the claims investigation.

Hazard/Incident	Agency to Notify	Person Responsible for Notification
Medical Device failures	Medicines and Healthcare Products Regulatory Agency	Associate Director of Operations Support
Medicine contra-indications \ Suspected adverse reactions to any therapeutic medication	Medicines and Healthcare Products Regulatory Agency	Medical Director
Incidents leading to legal claims	NHSLA	General Manager Patient Services
Fire incidents, buildings and non-medical equipment defect and failure	DH Estates and Facilities Management	Associate Director – Operations Support
Serious injury or homicide of a child	Local Safeguarding Children Boards	Clinical Quality Director
Notifiable diseases	Health Protection Agency Centre for Infection	Medical Director
Serious Untoward Incidents	Local Primary Care Trust and copied to the Strategic Health Authority	General Manager Patient Services
"Catastrophic /major client incidents"	National Patient Safety Agency	General Manager Patient Services
Major injuries and over three day absences (RIDDOR)	Health & Safety Executive	Health, Safety and Security Manager
Dangerous occurrences (RIDDOR)	Health & Safety Executive	Health, Safety and Security Manager
Notifiable diseases (RIDDOR)	Health & Safety Executive	Health, Safety and Security Manager

8 Investigation and root cause analysis

Following a serious incident or a Letter of Claim (where this is the first indication of an incident occurring), a full investigation into the circumstances, causal factors and outcome should be undertaken.

It should be noted that care must be taken to ensure that reports created during investigations that do not have actual or prospective litigation as their sole or dominant purpose are used with caution, as they are likely to be discloseable in law. Therefore, extreme care must be taken to ensure that content is factual and all opinion / supposition must be avoided as far as practically possible. Insofar as the facts speak for themselves, their interpretation may amount to an admission of

liability but this should not inhibit the Trust from dealing properly and effectively with the remedial action which may be indicated.

The Investigation Guidance – Investigation of incidents, complaints and claims identifies the investigation process to be followed and the identification of causal factors for incidents, complaints and claims. Additional guidance on supporting clinicians can be found in the Trust's Being Open policy.

The Corporate Services Manager, in conjunction with the General Manager Patient Services, will ensure that a detailed investigation is undertaken where claims arise from either:-

- An incident likely to generate substantial compensation
- Publicly or media sensitive cases
- Obstetric and paediatric cases
- Fatal incidents including unexplained deaths
- Misdiagnosis of life threatening illness
- Serious professional misconduct

Or where the risk rating of the incident is significant or high or the litigation risk identifies the need for further investigation.

9 Claims data collection and analysis

The Director of Finance and the General Manager Patient Services are responsible for ensuring that all matters relating to claims are reported at regular Quality Risk Assurance Committee meetings which may include a summary of all new claims, details of recently settled claims, trends in causal factors and any emergent risk management issues. Reports will be submitted to the Committee at least twice a year with the exception that if a significant risk is identified during the claims process, the Committee will be informed of this.

Bi-monthly reports will be sent to the Risk Management Group for recording and approval.

The Learning Group will meet on a bi-monthly basis to identify themes and trends across incidents, Serious Incidents, claims, complaints and PALS and these will be reported to the CAPE Group for further action.

The General Manager Patient Services will ensure that any problems identified through the litigation process are included into the annual audit plans of any specific departments and feedback any comments that may be received from the specialties. Any clinical issues that are identified will be fed through the CAPE Group for inclusion on the Clinical Risk Register.

The minutes of the Integrated Committee meetings and any significant risks will be formally recorded and submitted to the Audit Committee and the Board.

9.1 Claims reports to the board and relevant committee(s)

The Trust Board has a responsibility to ensure that the analysis of all incidents, complaints and claims is undertaken on an aggregated basis to optimise the recognition of trends and themes and enable a swift response to them. The Trust Board is also responsible for ensuring that trends and themes are acted upon and managed effectively and that any lessons learnt through the investigation of such incidents, complaints and claims are communicated across the organisation. The

Trust Board will receive the aggregated data on a quarterly basis from the Risk Management Group and will monitor actions taken as a result of the analysis. In addition to this the Quality Risk Assurance Committee will also receive a CLIP (Complaints, Litigation, Inquests, Incidents, PALS) report on a bi-monthly basis and this will be fed up to the Trust Board.

10 Learning from experience

The Trust recognises that the proper management of risk is essential to the provision of quality health care within accepted standards of medical/professional care. It will also provide for safe delivery of this care to all who may be affected by the Trust activities, including the protection of its employees. The Trust is committed to adopting:

- Unified mechanisms for reporting and analysis when things go wrong
- A more open “fair blame” culture, in which errors or service failures can be reported and discussed
- Mechanisms for ensuring that, where lessons are identified, the necessary changes are put into practice
- A much wider appreciation of the value of the system approach in preventing, analysing and learning from errors.

This integrated approach for the learning from incident reporting, complaints management and claims is covered in the Trust’s Risk Management Strategy.

The Learning Group will identify themes and trends across claims, complaints, PALS, Serious Incidents and incidents and feed these up to the CAPE Group for the establishment of task and finish groups and the implementation of action plans.

11 Review and Revision arrangements including Version Control

11.1 Process for Reviewing the Claims handling policy

This document will be reviewed as soon as it is affected by any new legislation or changes in Trust Practice. In any case this document will be reviewed at least annually. Any changes must be approved to the process described in section 6.1 of this document.

11.2 Version Control

This will be undertaken in line with the Trust’s Policy for Procedural Documents.

12 Dissemination and Implementation

12.1 Dissemination of the Claims Policy

The Claims Policy will be disseminated to all managers and staff by email and the intranet by the General Manager Patient Services in line with the Trust’s Policy for the Development and Management of Procedural Documents.

12.2 Implementation of the Claims Policy

It is important that all managers and staff familiarise themselves with their responsibilities in the prevention, notification, investigation and participation in claims for damages arising from incidents of clinical negligence and non-clinical accidents.

Training regarding these matters should be arranged by the Human Resources Department or the Corporate Services Manager if required.

Staff should be encouraged to seek advice in any areas which they may be unfamiliar with or where they have some concern about their legal position. Any enquiries should be channelled through the Corporate Services Manager.

13 Document Control including Archiving and Retrieval Arrangements

This will be undertaken in line with the Trust's Policy for the Development and Management of Procedural Documents.

Under Review

14 Monitoring Effectiveness of the Claims Policy

What	Who	How	Frequency	Evidence	Reporting arrangements	Acting on recommendations	Change in practice and lessons to be shared
<i>Duties</i>	<i>Risk Management Group (RMG)</i>	<i>In line with best practice</i>	<i>On review of policy</i>	<i>Minutes of RMG</i>	<i>Trust minutes Board</i>	<i>Corporate Services Manager</i>	<i>In line with best practice</i>
<i>NHSLA schemes relevant to the organisation</i>	<i>Corporate Services Manager</i>	<i>Trust's incident reporting system can be interrogated to extract claims data and communication with NHSLA</i>	<i>Monthly</i>	<i>Reports including compliance.</i>	<i>RMG minutes</i>	<i>Corporate Services Manager/General Manager Patient Services</i>	<i>Required changes to practice will be identified and actioned within a specific time frame. A lead member of the team will be identified to take each change forward where appropriate. Lessons will be shared with all the relevant stakeholders.</i>
<i>Action to be taken, including timescales</i>	<i>Corporate Services Manager</i>	<i>Trust's incident reporting system can be interrogated to extract claims data and audit</i>	<i>Monthly</i>	<i>Reports including compliance.</i>	<i>RMG minutes</i>	<i>Corporate Services Manager/General Manager Patient Services</i>	<i>Required changes to practice will be identified and actioned within a specific time frame. A lead member of the team will be identified to take each change forward where appropriate. Lessons will be shared with all the relevant stakeholders.</i>
<i>Communication with relevant stakeholders</i>	<i>Corporate Services Manager</i>	<i>Trust's incident reporting system can be interrogated to extract this data</i>	<i>On a case by case basis</i>	<i>Quarterly report from NHSLA compared to monthly report</i>	<i>General Manager Patient Services</i>	<i>Corporate Services Manager/General Manager Patient Services</i>	<i>Required changes will be notified to the Corporate Services Manager of General Manager Patient Services and completed in the timescales set.</i>

15 References

Ministry for Justice. *Pre-action Protocols for the Resolution of Clinical Disputes* [online]. Available from: www.justice.gov.uk

Ministry for Justice. *Pre-Action Protocol for Personal Injury Claims* [online]. Available from www.justice.gov.uk

The National Health Service Litigation Authority Framework Document. Available from www.nhsla.com (Publications - General)

Clinical negligence reporting guidelines fifth edition – October 2008. Available from www.nhsla.com (Publications - Claims publications)


LTPS reporting guidelines Available from www.nhsla.com (Publications - Claims)

NHSLA Disclosure List. Available from www.nhsla.com (Publications - Claims)

16 Associated Documentation

Policy for Procedural Documents
Risk Management Strategy
Management of Incidents Policy
Complaints Policy
Being Open Policy
Quality Risk Assurance Committee Terms of Reference
Investigation Guidance –Investigation of incidents, complaints and claims

Appendix 1 Equality Impact Assessment

Executive Summary Page for Equality Impact Assessment:	
Document Reference: CORP 2	Document Title: Claims Policy: Clinical negligence, Liabilities to third Parties and Property Expenses Scheme Claims
Assessment Date:	Document Type: Policy
Responsible Director: Paul Scott	Lead Manager: Emma Sears
Conclusion of Equality Impact Assessment: The Trust is not aware of any adverse impact this policy may have on any particular group.	
Recommendations for Action Plan: The data on individuals involved in claims that is recorded on the patient safety software should be analysed on a regular basis.	
Risks Identified: The Trust currently records this information on the patient safety software however this information is not currently analysed.	
Approved by a member of the executive team:	
YES	NO
Name: Paul Scott	Position: Director of Finance
Signature: 	Date: 24/06/11
This whole document should be stored with the master document and a final approved copy must be sent to the Equality & Diversity Lead at Bedford Office	