Claims Management Policy

Version: 1

Summary: This document represents Southern Health NHS Foundation Trust’s requirement to have a clear policy for the handling of Clinical Negligence, Liabilities to Third Parties and Property Expenses Scheme claims.

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Target Audience: Head of Legal & Insurance Services and staff who are involved in a claim.

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Claims Management Policy

1 Introduction

1.1 Southern Health NHS Foundation Trust (hereafter referred to as 'the Trust') recognises that management of claims is an important part of the Trust’s strategy for effective risk management. The Trust is committed to the timely and effective investigation and response to any claim which includes allegations of clinical negligence or personal injury/loss.

1.2 This document represents the Trust’s requirement to have a clear policy for the handling of clinical negligence and personal injury claims, following the guidelines set out in EL (96)11, Clinical Negligence and Personal Injury Litigation Claim Handling Civil Procedures Reforms (1999), NHS Executive (NHSE) guidance and the NHS Litigation Authority’s (NHSLA) Clinical Negligence, Liabilities to Third Parties and Property Expenses Schemes for Trusts. This policy will be updated in line with new national guidance when received and on a three yearly basis.

1.3 The Trust is required to manage claims in accordance with all guidance issued by the NHSLA and is a condition of its membership of the following schemes:

- Clinical Negligence Scheme for Trusts (CNST)
- Liabilities to Third Parties Scheme for Trusts (LTPS) previously known as Risk Pooling Schemes for Trusts (RPST), (including Employers’ Liability, Public Liability, Products Liability and Professional Indemnity)
- Existing Liabilities Scheme (ELS – for claims relating to incidents which occurred prior to April 1995)
- Property Expenses Scheme (PES) (including Property Damage and Contract Work)

Following the inception of the NHSLA, all clinical negligence claims were passed to it in April 2002, and the NHSLA assumed management and financial responsibility for all clinical negligence claims either under CNST or ELS. The NHSLA also manages claims under LTPS and PES. A management fee and excess charge is raised by the NHSLA for each claim managed with the exception of Clinical Negligence where no excess charge applies.

1.4 Claims monitoring is a fundamental tool of risk management, the aim of which is to collect information about claims which will help to facilitate wider organisational learning. This policy and associated Claims Management Procedure not only describe the process by which claims are managed within the Trust, but also how the organisation will learn from claims in order to continuously improve the care of our patients, staff and all of those who use our services.
1.5 The Trust has an open and progressive culture. If on investigation a claim is found to be valid then early settlement is encouraged subject to the approval of the NHSLA. This provides a comprehensive mechanism to bring claims to a speedy conclusion in the best interest of the claimant whether they are a patient, member of staff or visitor.

2 Scope

2.1 The Trust, through its Risk Management Strategy, acknowledges its duty to ensure that the appropriate financial and risk management systems are in place and that any losses are minimised. In seeking to manage risk effectively, this policy and associated procedure aim to:

a) effectively manage claims made against the Trust;
b) ensure appropriate support is made available to staff when a claim has been made;
c) learn from claims in order to prevent reoccurrence;
d) take a systematic approach to claims handling in line with the legal and best practice requirements for NHS bodies in respect of claims and risk management.

2.2 This policy applies to all directly and indirectly employed staff and other persons working within the Trust in line with the Trust’s Equal Opportunities Policy who may be involved with a claim.

3 Definitions

3.1 For the purposes of this policy the following definitions apply:

Claim ‘a demand for compensation made following an adverse incident resulting in damage or loss to property and/or personal injury’. From a clinical perspective this also includes 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.

Claimant Any patient or their representative, a member of the public, or employee who instructs solicitors to act on their behalf to pursue a claim against the Trust, or who enters into legal proceedings against the Trust or who pursues compensation.

Clinical Negligence An allegation that a healthcare professional has failed to act in a patient’s best interest by failing to exercise reasonable care and skill appropriate to the care and/or treatment provided so that no responsible body of clinical opinion would have supported what the healthcare professional did.

Personal Injury Actual harm caused to a patient, staff, or visitor or his/her property, arising from a breach of common law or statutory duty to take reasonable care to provide safe premises,
systems of work, equipment and competent staff.

Employer's Liability
The Trust is under a common law duty and a statutory duty to take reasonable care to provide competent staff, safe plant and equipment, safe premises and safe systems of work. The Trust may be liable to pay compensation to any employee for any injury or loss suffered as a result of a breach of these responsibilities. These circumstances may also give rise to criminal liability.

Public Liability
The Trust is under a common law duty to take reasonable care in all circumstances to make safe any visitor to its premises. The Trust may be liable to pay compensation to any visitor who sustains injury or loss as a result of a breach of a duty to take reasonable precautions to protect the visitor.

Human Rights claim
A claim against a public body by an individual for acting incompatibly with their rights.

Ex-gratia
Ex-gratia claims are not based upon legal liability and are therefore the responsibility of the Trust and not covered by the reporting guidelines of the NHSLA. Costs of ex-gratia claims are not recoverable and must be borne completely by the Trust.

Judicial Review
The purpose of seeking a judicial review is to force a public authority to either carry out an action (Mandatory Order) or to prevent it from acting (Prohibitory Order) or to overrule a decision already made (Quashing Order).

Conditional Fee Agreements
This is commonly referred to as a 'no win no fee' agreement that the claimant has entered into with their legal representative. In the event of a successful claim, the Trust is obliged to refund the insurance premium incurred by the claimant in addition to other costs.

Compensation Recovery Unit
The CRU seeks to obtain the recovery of social security benefits from successful claimant settlements.

4 Duties and Responsibilities

4.1 Trust Board and Chief Executive
4.1.1 The Trust’s Board will endeavour to be informed and assured that the claims management system is working effectively. They will do this through the reports described in Section 7 below, through interim exception reporting and through the Medical Director who is the sponsor of this Policy. The Chief Executive Officer is ultimately responsible for ensuring that all claims are dealt with effectively and efficiently and for informing the Board of major developments.

4.1.2 The Trust Board will be advised of major legal issues. However, the NHSLA has full financial responsibility for all clinical claims. The non-clinical claims...
have an excess level of £3k for public/occupier liability and £10k for employer liability. The NHSLA will take financial responsibility for monies that exceed these values. Although the Trust remains the defendant the NHSLA make the ultimate decision regarding large value claims.

4.2 Committee with overarching responsibility for Claims Management

4.2.1 The committee who will have overarching responsibility for the management of claims is the Quality and Safety Committee (Q&SC). This committee has the overarching responsibility for all of the Trust’s risk management including the handling of incidents and complaints.

4.2.2 The Q&SC will have the opportunity to analyse claims when they are presented on a biannual basis by the Head of Legal & Insurance Services and minutes of this committee’s meetings are communicated upwards to Board level. The Q&SC will also report downwards to local management level through the senior divisional directors who are members of the committee. This will facilitate organisational learning and drive improvements which have been identified through claims monitoring.

4.2.3 Members of the Q&SC will also be responsible for contributing to and approving further development of this policy when it is up for review.

4.3 Head of Legal & Insurance Services

4.3.1 The duties and responsibilities of the Head of Legal & Insurance Services include:

- Receiving, acknowledging and assessing all new claims that may arise against the Trust for any of the schemes set out in 1.3 above.
- Identifying and arranging for the preservation of relevant records, the scene when necessary and other items, such as equipment involved in accidents or incidents unless already undertaken under the Trust’s Investigation, Analysis and Learning Policy.
- Establishing and maintaining contact and giving advice and support to relevant current and former staff, as necessary especially for any requirement for witness statements, court appearances etc.
- Referring to and liaising with the NHSLA as appropriate.
- Analysing, in consideration of staff views, and in conjunction with the NHSLA and its claims assessors where appropriate, whether claims should continue to be defended or settled.
- Systematically reviewing case files to ensure that claims are progressed and brought to a conclusion as soon as possible, via the appropriate authorities.
- Ensuring that information emerging during claims investigations and the outcome is shared with staff directly involved in the case, including clinicians, Heads of Department, senior managers and the Quality and Safety Committee as appropriate for risk management and organisational learning.
- Preparing reports and other submissions required by the Quality and Safety Committee for relevant clinical and non-clinical claims, and for the NHSLA if required.
- Advising service managers on reasons for claims being settled in order to facilitate learning and improvement.
- Participating in risk management activities by contributing positively to educational programmes for the benefit of front line clinical and ancillary staff.
- Delegated responsibility for management of the Trust’s legal budget.
- Ensuring that invoices relating to litigation cases and other ad hoc legal advice are monitored and paid in accordance with the Trust’s Financial Instructions.
- Delegated authority to settle LTPS claims direct with litigants-in-person up to the sum of £3,000 for public liability claims and £10,000 for employer liability claims (the NHSLA excess level), when appropriate.

4.4 Service/Investigating Managers

4.4.1 The investigating manager will usually be the service manager responsible for the area against which allegations have been made (unless they are directly implicated in the claim) and they will be identified by the Head of Legal & Insurance Services. They will be required to carry out an investigation into the allegations. This will need to be done in accordance with the Investigation, Analysis and Learning Policy and within stipulated timeframes. Prior to requesting an investigation, the Head of Legal & Insurance Services will ensure that there has not already been an investigation as a result of a previous incident report or complaint.

4.4.2 Service Managers will also be responsible for disseminating learning from claims to their wider teams and ensuring action plans are implemented where appropriate.

4.5 All Trust employees

4.5.1 Co-operation of all staff involved in claims, in particular clinical staff who are approached for comments in relation to clinical negligence cases, is required if claims are to be successfully defended. Trust employees should immediately inform the Head of Legal & Insurance Services if they become aware of the possibility of a clinical negligence or personal injury claim against the Trust.

4.5.2 Every member of staff is expected to co-operate fully by:
- responding to requests for information
- conducting as full a search as is practical when records are requested
- assisting in the investigation and assessment of each claim
- abiding by the required timescales
- being diligent in record keeping and documenting any findings from their investigations
- preserving evidence and the scene when appropriate and
- learning from the outcome of the investigation and taking forward any relevant actions identified.
4.5.3 Any member of staff who is involved in a claim, particularly clinical claims, may be invited to attend meetings or conferences with the Trust’s legal advisers and/or Counsel which may impact on how the case proceeds.

4.5.4 The Trust is committed to supporting staff throughout the claims management process and expects their cooperation in this. Failure of staff to cooperate with the Head of Legal & Insurance Services or other legal representatives will be reported to the relevant Senior Manager and Divisional Director and if necessary appropriate action will be taken.

4.5.5 Neither the Head of Legal & Insurance Services nor any member of Trust staff is permitted to approach or liaise directly or independently with a Claimant once a claim has been made.

4.5.6 In clinical negligence cases, the views of those involved in treatment which has given rise to a claim, will be considered carefully by the Head of Legal & Insurance Services and conveyed to and discussed with the NHSLA, before any decision is made to settle or contest the claim. The final decision to seek to negotiate a settlement or to continue defending the case will be taken by the NHSLA in conjunction with the Head of Legal & Insurance Services.

4.5.7 The Trust accepts the vicarious liability for the actions of its staff as a result of their normal NHS activities. In the interests of good employer/employee relations the Trust would not routinely seek financial redress from an employee if he/she were shown to be negligent. However, in exceptional circumstances where there is clear evidence of wilful or gross neglect causing damage, the Trust reserves the right to pursue such a course.

4.6 Other key staff
4.6.1 It is the duty of the Complaints Manager, SIRI Manager and staff handling subject access requests to inform the Head of Legal & Insurance Services of any complaints, serious untoward incidents or requests for access to medical or other records that could result in a claim.

5 NHSLA Schemes relevant to the Organisation

5.1 CNST: The Clinical Negligence Scheme for Trusts (CNST) is a voluntary membership scheme, to which all NHS trusts, Foundation Trusts and Primary Care Trusts (PCTs) in England currently belong. It covers all clinical claims where the allegedly negligent incident took place on or after 1 April 1995. The costs of meeting these claims are met through members’ contributions. Only NHS bodies are eligible to become members of CNST. However, Independent Sector Treatment Centres treating NHS patients may benefit from CNST cover via their referring Primary Care Trust. There are no excesses to be paid on claims settled through the CNST.

5.2 RPST: The Liabilities to Third Parties Scheme (LTPS) and the Property Expenses Scheme (PES), known collectively as the Risk Pooling Schemes for Trusts (RPST), are two voluntary membership schemes covering non-clinical claims where the incident occurred on or after 1 April 1999. Costs are met through members’ contributions. LTPS/PES claims are subject to excesses, with member bodies responsible for handling and funding below-excess claims themselves. They can, however, ask the NHSLA to handle these claims for
them for a handling fee. LTPS covers employers’ liability claims, from straightforward slips and trips in the workplace to serious manual handling, bullying and stress claims. In addition, LTPS covers public and products liability claims, from personal injury sustained by visitors to NHS premises to claims arising from breaches of the Human Rights Act, the Data Protection Act and the Defective Premises Act. There is also cover for defamation, professional negligence by employees and liabilities of directors. PES provides cover for “first party” losses such as theft or damage to property.

5.3 **ELS:** The Existing Liabilities Scheme (ELS) is centrally funded by the Department of Health and covers clinical claims against NHS bodies where the incident took place before April 1995.

6 **General Issues Surrounding Claims Handling**

6.1 A claim may be made by any member of the public whether a patient or visitor to NHS premises, by an employee of the Trust or their representatives. Claims can also be made by the estate of deceased individuals. The Trust might bring a claim in its own right under the provisions of the property expenses scheme.

6.2 Sources of a potential claim might be the following:

- A letter from a patient or from his/her next of kin or appointed representative (where the patient is deceased, a child or a person with learning disabilities)
- An incident reported through the Trust’s risk management processes
- A complaint through the NHS Complaints Procedure which also includes a request for compensation
- A Coroner’s Inquest where the standard of care in the Trust is criticised, especially where the relatives of the deceased patient have instructed lawyers
- A request for medical records sent directly to the Trust Medical Records Department, via solicitors, which suggests impending litigation against the Trust
- Service of a claim.

6.3 Apart from being served a claim there are other triggers which invoke initial parts of the claims procedure. These are described in the Claims Management Procedure which should be read in association with this policy.

6.4 The limitation periods on initiating claims are as follows

- In general, under the Limitation Act 1980, claims have to be made within three years from the date of the injury, or alternatively three years from the date the claimant knew (or ought to have known) they had suffered an injury. In the case of minors, the three-year period does not start until they reach the age of 18 years. People without mental capacity have unlimited time in which to make a claim

- A Human Rights Act claim has to be made within one year of the act being committed or a failure to act
6.5 There are various timescales for the exchange of relevant information with the claimant’s solicitors and other parties which are also described in more detail in the Claims Management Procedure. It is important for all involved that reported claims are resolved as quickly as possible. To this end, the Trust is committed to following Pre-action Protocols and Civil Procedure Rules and encourages more pre-action contact with claimants, better and earlier exchange of information, improved investigation, earlier settlement without the need for litigation and court proceedings to run smoothly where there is a need for litigation. The Head of Legal & Insurance Services will be responsible for ensuring these aims are achieved.

6.6 Claims require sensitive handling and confidentiality must be maintained. All claims will be handled in line with the Trust’s policies on data protection and confidentiality. Information will only be shared on a need-to-know basis as required to investigate and manage a claim. Claims data will be entered on to an electronic database and access will be on a named basis only.

7 Operational Structure and Reporting

7.1 The Head of Legal & Insurance Services, reporting to the Associate Director of Governance, will be responsible for the day-to-day management of all clinical negligence, liability to third parties and property expenses claims. It is a requirement of EL (96)11 that the responsible manager is of sufficient seniority to carry influence within the organisation and has sufficient expertise and/or training in clinical negligence and personal injury litigation, including the use of Alternative Dispute Resolution (ADR) methods such as mediation.

7.2 The Associate Director of Governance will ensure that the Head of Legal & Insurance Services receives sufficient training, assistance and resources to meet the requirements of this policy.

7.3 The Head of Legal & Insurance Services will report on any claims they are handling on a 6 monthly basis to the Trust’s Quality and Safety Committee. Interim reports will be provided for exception reporting as the need arises.

7.4 On an annual basis, the Trust’s Assurance Committee will receive a report on the number and aggregate value of claims in progress, the likely outcome, the final outcome (once known), any lessons learned and any remedial action taken or anticipated. In addition, interim reports will be made on individual cases which are of a high profile or likely to have major implications for the Trust.

8 Delegated responsibilities

8.1 The Trust recognises the importance of liaising closely with the NHSLA on any claim covered by the CNST, ELS or LTPS schemes, all of which are settled by the NHSLA in conjunction with the Head of Legal & Insurance Services.

8.2 The Head of Legal & Insurance Services will inform the Quality & Safety Committee of any claims where the NHSLA have made a decision on the
management of a claim which it is felt may not be in the Trust’s best interests. In those circumstances, the Quality & Safety Committee may wish to recommend to the Trust Board that they override the NHSLA’s decision, bearing in mind that the Trust will then be required to take on financial responsibility for the claim.

8.3 The Head of Legal & Insurance Services will have the authority to liaise with the NHSLA in respect of decisions to settle claims/admit or deny liability by indicating the Trust’s view and reporting any disagreement under Section 8.2. The Quality & Safety Committee must be advised of any cases that the NHSLA/Head of Legal & Insurance Services wish to take to Court.

8.4 Approval to settle claims will be delegated to the Head of Legal & Insurance Services in accordance with Reservation of Powers to the Board. Delegated authority is also given to settle LTPS claims direct with litigants-in-person up to the sum of £3,000 for public liability claims and £10,000 for employer liability claims (the NHSLA excess levels), when appropriate.

8.5 Defence documents connected with a clinical negligence claim should be signed by the Head of Legal & Insurance Services, except for witness statements which should be signed by the member of staff making the statement.

8.6 Property claims are subject to a £20,000 excess. The Executive Director with responsibility for the area claimed against will have authority to agree settlement of claims below the excess level.

9 Communication with Stakeholders

9.1 Liaison with internal stakeholders and the NHSLA is covered in the Claims Management Procedure in terms of who they will be contacted by and at what stage.

9.2 Liaison with the Police will take place when there is suspicion of an unlawful act and liaison with the Coroner will take place when there is a suspicious or unexpected death. It is likely that liaison with the Coroner and Police will have taken place at the time of the incident rather than when the claim is brought.

9.3 Where the circumstances give rise to allegations of professional misconduct, HR will advise whether the matter should be reported to the relevant professional body.

9.4 Other stakeholders who may need to be notified include:
   - Host health authority
   - Neighbouring health authorities with whom the Trust does business
   - Neighbouring trusts (including acute and ambulance trusts)
   - Local PCTs
   - Social services
   - Care Quality Commission
   - Local medical, pharmaceutical, dental or ophthalmic committees
   - Medicines and Healthcare products Regulatory Agency
   - Local district and county councils
   - University providing education for nurses at the Trust
   - University providing education for allied health professions at the trust
- Local MP’s
- Health and Safety Executive
- Counter Fraud
- Voluntary organisations (e.g. League of Friends, volunteers)
- Local residential and nursing homes
- Voluntary sector representatives
- Local ethnic organisations
- Local patient support and self-help groups

9.5 The Head of Legal & Insurance Services will liaise with the internal stakeholders to determine whether any additional external stakeholders should be notified. This will depend on the type and severity of the claim. Claimant and staff confidentiality will be maintained at all times when dealing with external stakeholders.

10  Supporting staff

10.1 Purpose
10.1.1 The process of investigation and the procedural issues relating to a claim can occasionally be very time consuming for staff involved. The progress of a claim can also be slow and lengthy and some cases will take years rather than months to conclude. The Trust acknowledges that staff may find the process stressful and recognises it is therefore important that staff (as stakeholders in the process) are appropriately supported. The applies to all staff, including bank, agency and locum workers, volunteers and those on work experience.

10.1.2 Staff may experience a range of reactions from stress and depression to shame and guilt. The high personal and professional standards of most clinicians and other NHS staff may make them particularly vulnerable to these experiences. It should also be recognised in applying this policy that different individuals will have differing responses to the same claim and will therefore require different levels or types of support. Any support offered must remain confidential to the individual.

10.1.3 It is important to recognise that the need for support is not a sign of weakness. Although the support of colleagues is essential, the Trust recognises that there may be occasions when any member of staff requires additional support outside this immediate circle.

10.2 Duties
10.2.1 The Trust Board and Chief Executive Officer will be assured that there are adequate provisions of support services for staff in order to minimise absences and improve staff well-being.

10.2.2 The Director of Workforce and Planning has a specific responsibility to ensure that processes are in place for all staff who are involved in a traumatic or stressful event to be supported throughout and receive continued support after the event, if required.

10.2.3 Service/Area Managers are responsible for providing immediate and ongoing support to staff who are involved in a stressful event such as a claim. They will:

- Arrange for the de-briefing of staff following traumatic or stressful events and deal with any subsequent absence in a compassionate manner
- Make staff aware of all the internal and external support available
- Take action to refer staff to the Occupational Health Department as appropriate
- Ensure that any recommendations from the Occupational Health Department are followed through

10.2.4 The Manager of the area where the alleged incident occurred is responsible for informing members of staff involved in a claim of any allegation as soon as possible, and to advise them of their right to seek the help and advice of a professional association or trade union. Managers will have a responsibility for ensuring that their staff are appropriately supported and, where necessary, should seek guidance from the Human Resources Department or Occupational Health Department.

10.2.5 All Staff involved in a traumatic or stressful event must inform their manager if:

- They are experiencing difficulties associated with the situation or as a result of the requirement to act as a witness, in order to enable their line manager to support them directly
- Request referral to relevant support services if they are experiencing difficulties
- Time is required away from the workplace to attend any meetings associated with the claim or court proceedings, or, where required, to attend for counselling or support

10.3 Immediate and Ongoing Support

10.3.1 Where a manager becomes aware that one or more of their staff are or has been involved in a claim, immediate support and reassurance should be offered to them and the details of appropriate internal or external resources provided.

10.3.2 Apart from the line manager themselves, internal support is available from the following:

- Occupational Health
- HR
- Employee Assistance Programme provider commissioned by the Trust
- Head of Legal & Insurance Services
- Staff side/Union reps
- Other managers
- Colleagues
10.3.3 It should be suggested that external support can be obtained from the following as appropriate:
- GP
- Professional bodies (eg NMC or GMC)
- Medical Defence Union
- Trade Unions

10.3.4 Ongoing support should be provided by offering debriefings at various stages in the process and by ensuring staff have been offered access to appropriate sources of internal and external support. It is also important for staff to be kept informed of the progress of any legal investigation in which they have been involved. In particular, staff must be made aware when the investigation has been completed, and the findings, recommendations and any action to be taken should be relayed to them. They must also be provided with an opportunity to ask any questions they may have.

10.4 Advice available to staff in the event of being called as a witness in a claim
10.4.1 Where a case is to go to trial, staff giving witness evidence will receive support through the Head of Legal & Insurance Services and their line managers both in the conferences before trial and at trial. Additionally, staff may wish to be accompanied by their union representative. The Head of Legal & Insurance Services or their Line Manager should accompany staff attending Court cases and liaise with the solicitor to provide support and advice to those staff attending.

11 Learning from Claims

11.1 Learning is covered more broadly in the Trust’s Policy on Investigation, Analysis and Learning.

11.2 Learning specifically from clinical negligence claims is done on a case by case basis due to the low numbers. The Trust only receives in the region of 10-15 clinical negligence claims a year, several of which are successfully repudiated. The remainder will often have already been thoroughly investigated through the serious incident investigation process with action plans having been written up at the time of the incident and often fully implemented by the time a claim is received.

11.3 Where NHSLA risk management reports on claims have been prepared, or risks and action plans have not already been considered through the serious incident management process, then this will be done as soon as possible after the claim has been received.
11.4 It is the responsibility of the Head of Legal & Insurance Services to liaise with the relevant service manager to consider the risk issues. The service manager is then responsible for overseeing that remedial action is taken and learning disseminated. Divisional Directors/Clinical Directors will include updates on these action plans in their reports to the Quality and Safety Committee and the Head of Legal & Insurance Services will also report on learning in biannual reports to this Committee.

11.5 Where the learning needs to be shared among the wider organisation the Head of Legal & Insurance Services will liaise with the relevant internal stakeholders such as the Learning and Education Department, Manual Handling lead etc. This will also be fed into the various Organisational Learning initiatives in place at the time as coordinated by the Head of Organisational Learning.

11.6 If it is relevant for the learning to be shared externally to the organisation, this will be done via external stakeholders as per section 9 of this policy.

12 Training

12.1 There are no specific training needs associated with the Claims Management policy. The more general training needs associated with investigation training are covered in the Trust's Policy on Investigations, Analysis and Learning.

13 Monitoring

13.1 The Head of Legal & Insurance Services personally oversees the procedure in each claim and will monitor and review the following:
  - That claims are dealt with according to the rules of the relevant NHSLA schemes
  - That action is taken appropriately and within the timescales detailed in the associated Claims Management Procedure
  - That communication with stakeholders including provision of staff support takes place as appropriate.

13.2 The monitoring will take place on an annual basis and will take the form of an audit of 50% of new claims received in the preceding 12 months. The claims will be chosen at random as directed by the Associate Director for Governance to ensure there is no bias. Staff involved will be consulted with to determine whether they were offered the appropriate support. The results will be reported to the Quality & Safety Committee via the annual report and if any shortfalls are identified there will be an associated plan of action and increased frequency of re-audit put into place. The resulting action plan and results of the re-audits will remain a rolling item on the Quality & Safety Committee action log until such time as the problems are resolved.

13.3 Duties will be monitored through the 1:1 and appraisal processes in operation across the Trust. With regards to the Head of Legal & Insurance Services, their duties will be monitored in 1:1 held monthly with the Associate Director for governance. The Head of Legal & Insurance Services will also escalate any concerns they have about the way any of the service managers or frontline staff are carrying out their duties to the respective Divisional Director who will

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Claims Management Policy
Head of Legal & Insurance Services
Version 1
June 2015
again monitor performance via monthly 1:1 and the yearly appraisal process.

14 References and Associated Documentation

14.1 References


- Department of Health, EL (96)11: Clinical Negligence and Personal Injury Litigation Claim Handling. Available at: [www.dh.gov.uk](http://www.dh.gov.uk)


- NHS Litigation Authority. (2008 [2001]). *Clinical Negligence Scheme for Trusts - Membership Rules (Revised March 2008)*. Available at: [www.nhsla.com](http://www.nhsla.com)


- NHS Litigation Authority. (2007). *LTPS claims reporting guidelines*. Available at: [www.nhsla.com](http://www.nhsla.com)


14.2 Associated Documentation

- Risk Management Strategy
- Incident Management Policy
- Investigation, Analysis and Learning Policy
- Policy for Data Protection, Caldicott and Confidentiality
- Being Open Policy
- Disclosure of Information under the Data Protection Act 1998
### Appendix 1 Equality Impact Assessment

<table>
<thead>
<tr>
<th>Name of policy/service/project/plan:</th>
<th>Claims Management Policy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy Number:</td>
<td>SH NCP 14</td>
</tr>
<tr>
<td>Department:</td>
<td>Corporate (Governance)</td>
</tr>
<tr>
<td>Lead officer for assessment:</td>
<td>Head of Legal &amp; Insurance Services</td>
</tr>
<tr>
<td>Date Assessment Carried Out:</td>
<td>01 June 2012</td>
</tr>
</tbody>
</table>

1. **Identify the aims of the policy and how it is implemented.**

<table>
<thead>
<tr>
<th>Key questions</th>
<th>Answers / Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Briefly describe purpose of the policy including:</td>
<td>This document represents the Trust’s requirement to have a clear policy and procedure for the handling of clinical negligence and personal injury claims.</td>
</tr>
<tr>
<td>- How the policy is delivered and by whom</td>
<td></td>
</tr>
<tr>
<td>- Intended outcomes</td>
<td></td>
</tr>
</tbody>
</table>

Provide brief details of the scope of the policy being reviewed, for example:

- Is it a new service/policy or review of an existing one?
- Is it a national requirement?

This is set out in EL (96)11, Clinical Negligence and Personal Injury Litigation Claim Handling Civil Procedures Reforms (1999), NHS Executive (NHSE) guidance and the NHS Litigation Authority’s (NHSLA) Clinical Negligence, Liabilities to Third Parties and Property Expenses Schemes for Trusts.

2. **Consideration of available data, research and information**

Monitoring data and other information involves using equality information, and the results of engagement with protected groups and others, to understand the actual effect or the potential effect of your functions, policies or decisions. It can help you to identify practical steps to tackle any negative effects or discrimination, to advance equality and to foster good relations.

Please consider the availability of the following as potential sources:

- **Demographic** data and other statistics, including census findings
- Recent **research** findings (local and national)
- Results from **consultation or engagement** you have undertaken
- Service user **monitoring data**
- Information from **relevant groups** or agencies, for example trade unions and voluntary/community organisations
- Analysis of records of enquiries about your service, or **complaints** or **compliments** about them
- Recommendations of **external inspections** or audit reports
### Key questions

<table>
<thead>
<tr>
<th></th>
<th>Data, research and information that you can refer to</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.1</td>
<td>What is the equalities profile of the team delivering the service/policy?</td>
</tr>
<tr>
<td>2.2</td>
<td>What equalities training have staff received?</td>
</tr>
<tr>
<td>2.3</td>
<td>What is the equalities profile of service users?</td>
</tr>
<tr>
<td>2.4</td>
<td>What other data do you have in terms of service users or staff? (e.g. results of customer satisfaction surveys, consultation findings). Are there any gaps?</td>
</tr>
<tr>
<td>2.5</td>
<td>What engagement or consultation has been undertaken as part of this EIA and with whom? What were the results?</td>
</tr>
<tr>
<td>2.6</td>
<td>If you are planning to undertake any consultation in the future regarding this service or policy, how will you include equalities considerations within this?</td>
</tr>
</tbody>
</table>

In the table below, please describe how the proposals will have a positive impact on service users or staff. Please also record any potential negative impact on equality of opportunity for the target:

In the case of negative impact, please indicate any measures planned to mitigate against this.
<table>
<thead>
<tr>
<th>Positive impact (including examples of what the policy/service has done to promote equality)</th>
<th>Negative Impact</th>
<th>Action Plan to address negative impact</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Actions to overcome problem/barrier</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Resources required</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Responsibility</td>
</tr>
<tr>
<td></td>
<td></td>
<td>14.3 Target date</td>
</tr>
<tr>
<td>Age</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Disability</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Gender Reassignment</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Marriage and Civil Partnership</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Pregnancy and Maternity</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td></td>
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</tr>
<tr>
<td>------------------</td>
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<td>--------</td>
</tr>
<tr>
<td><strong>Race</strong></td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td><strong>Religion or Belief</strong></td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td><strong>Sex</strong></td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td><strong>Sexual Orientation</strong></td>
<td>n/a</td>
<td>n/a</td>
</tr>
</tbody>
</table>
List in the table below level of engagement / consultation with target groups:

<table>
<thead>
<tr>
<th>Target Group</th>
<th>√</th>
<th>Engagement/Consultation carried out</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service Users &amp; Carers</td>
<td></td>
<td>n/a</td>
</tr>
<tr>
<td>Staff</td>
<td></td>
<td>Consultation carried out when previous versions were written for HCHC and HPFT as this policy simply amalgamates those two policies, no further consultation deemed necessary.</td>
</tr>
<tr>
<td>General Public</td>
<td></td>
<td>n/a</td>
</tr>
<tr>
<td>PCT Commissioners</td>
<td></td>
<td>n/a</td>
</tr>
<tr>
<td>Local Authorities</td>
<td></td>
<td>n/a</td>
</tr>
<tr>
<td>Voluntary Organisations</td>
<td></td>
<td>n/a</td>
</tr>
<tr>
<td>Other Stakeholders</td>
<td></td>
<td>n/a</td>
</tr>
</tbody>
</table>