

The Newcastle upon Tyne Hospitals NHS Foundation Trust

Claims Management Policy

Version No.:	6.0
Effective From:	16 July 2015
Expiry Date:	16 July 2017
Date Ratified:	23 June 2015
Ratified By:	Clinical Policy Group

1 Introduction

Claims management and 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 as well as fulfilling the Trust's vision to be "The healthcare service for Newcastle and a national leading healthcare provider".

2 Scope

This policy applies to all staff dealing with personal injury claims against the Trust. Employment claims are handled by the Human Resources Department.

3 Aims

The policy contains guidance on how claims are to be dealt with within the organisation involving third parties such as the NHS Litigation Authority (NHSLA), solicitors and claimants. It includes the reporting procedure for the Clinical Negligence Scheme for Trusts (CNST), Liabilities to Third Parties Schemes (LTPS) and Property Expenses Scheme (PES).

4 Duties (Roles and responsibilities)

4.1 Trust Board

The Chief Executive is ultimately responsible for claims management and the Medical Director has executive responsibility for effective claims management.

4.2 Corporate Governance Committee

The Corporate Governance Committee has responsibility for considering issues arising from the claims process. It also has responsibility for the review of actions to be taken following claims received.

4.3 Senior Management

The Director of Quality and Effectiveness manages the Clinical Governance and Risk Department of which the Litigation function forms a part.

4.4 Legal and Committee Services Manager

The Legal and Committee Services Manager has day to day responsibility for the management of the litigation function and reports directly to the Director of Quality and Effectiveness. The responsibilities include ensuring that all claims are investigated and managed as outlined in the policy and to the correct timescales, preparing reports as required and coordinating the completion of actions required.

4.5 Director of Estates and Facilities

The Director of Estates and facilities is responsible for claims which fall under the property expenses scheme (PES)

5 NHS Litigation Authority Schemes Definitions

5.1 Clinical Negligence Scheme for Trusts (CNST)

The Clinical Negligence Scheme for Trusts handles all clinical negligence claims against member NHS bodies where the incident in question took place on or after 1 April 1995 (or when the body joined the scheme, if that is later). Although membership of the scheme is voluntary, all NHS Trusts (including Foundation Trusts) in England currently belong to the scheme.

5.2 Liability to Third Parties Scheme (LTPS)

The Liabilities to Third Parties Scheme (LTPS) and Property Expenses Scheme were established in 1999 to provide a means for NHS Trusts to fund the cost of legal liabilities and property losses and to encourage and support the effective management of risks and claims. The LTPS scheme includes Employment and Public Liability Claims.

5.3 Property Expenses Scheme (PES)

The Property Expenses Scheme covers "first-party" losses by NHS bodies such as property loss or damage. It is a voluntary scheme, funded through members' contributions.

6 Procedure Notes

Claims received will be managed and investigated as outlined below for all potential severities of claim, all claims being investigated and managed in the same way, irrespective of severity.

6.1 Clinical Negligence Scheme for Trusts

Whenever a letter is received from a solicitor indicating that a claim is being lodged against the Newcastle upon Tyne Hospitals NHS Foundation Trust, members of staff should not make any kind of response or comment but immediately pass the letter to the Legal Department, Freeman Hospital. On receipt of the letter into the Legal and Committee Services Manager's office, the following actions will be taken:

- Date-stamp receipt of letter.
- Identify the location of the relevant case notes/other documents.
- Open a litigation file allocating a reference number.
- Acknowledge receipt of claim correspondence to claimant's solicitor within 2 working days indicating that the Trust or Solicitors acting on our behalf will be in contact.
- Photocopy two sets of case notes and paginate.
- Request a schedule of all radiology, scans and images.
- Refer to the Trust's solicitors enclosing a copy of the first letter of contact from the claimant's solicitors together with one set of copied case notes. Copy records must be provided to the claimant's solicitors within 40 days of the request subject to payment of the fee.
- Request a report in response to the allegations from the Directorate Manager copying the Clinical Director into correspondence. The report should be provided to Legal Services within 4 weeks of the request. It is the Directorate Manager's responsibility to complete an Action Plan which should be forwarded to Legal Services within 10 weeks of request. If advice or assistance is required in the preparation of the report, please refer to the Legal and Committee Services Manager.
- A preliminary analysis, if appropriate, should be completed by the Trust's nominated solicitors after the request for disclosure.
- Monitor response from Trust solicitor relating to the decision to defend or settle.
- Monitor details relating to possible quantum, timescale and length of action.
- Monitor case, recording any notification of court hearings or payment into court.
- Monitor and record all outcomes.
- Collate statement of costs including damage awards, claimant and defence charges.

6.2 Public Liability Claims

Whenever a letter is received from a solicitor indicating that a claim is being lodged by a member of the public against the Newcastle upon Tyne Hospitals NHS Foundation Trust, no response or comment should be made but the letter should immediately be passed to the Legal and Committee Services Manager, Freeman Hospital.

Claims in this category will be referred immediately to the NHSLA.

This process will involve liaising with relevant Departmental Heads and other senior personnel to collate statements and reports.

6.3 Employers' Liability Claims

Whenever a letter is received from a solicitor indicating that a claim is being lodged by a present or past employee of the Newcastle upon Tyne Hospitals NHS Foundation Trust, no response or comment should be made but the letter should immediately be passed to the Legal and Committee Services Manager, Freeman Hospital.

Claims in this category will be referred immediately to the NHSLA.

This process may involve liaising with the Occupational Health Department, Heads of Department and other Trust employees relating to the collation of relevant statements and reports.

6.4 Property Expenses Scheme

The Director of Estates and Facilities deals with all Property Expenses.

Claims, e.g. fire, flood and all property claims should be immediately notified to the Director of Estates and Facilities, Freeman Hospital.

Claims relating to damage or theft of property should be immediately notified in writing to the Director, Estates and Facilities who will in turn report the claim to the NHSLA. The Trust's current excess is £20,000. Incident report forms must be completed in respect of claims.

The Head of Department will immediately prepare a report for the Director of Estates and Facilities regarding the exact nature and cause of the damage or loss and statements obtained from any witnesses. The Director of Estates and Facilities will then pursue any follow-up action. This should be completed within one month of a loss.

The Finance Department will be informed of the potential value of the claim. Invoices should be obtained through suppliers where possible for the cost of purchase replacement of the property damaged. Consideration should be given to 'hidden' costs relating to a claim such as overtime worked to rectify the damage/situation, cost of equipment hired e.g., dryers to dry a flooded room. This should be supported by documentary evidence and if appropriate, photographs.

6.5 Small Claims

Small Claims are not dealt with under any of the NHSLA schemes but are managed by the Director of Estates and Facilities for all sites. Claims of this type include, e.g. lost dentures and lost spectacles and should be forwarded to the Director of Estates and facilities.

7 Communication with Stakeholders

7.1 All stakeholders including the appropriate Solicitor and the NHS Litigation Authority should be informed of developments as detailed above. It is the responsibility of the Legal and Committee Services Manager to ensure that appropriate communications are undertaken to the agreed timescales.

7.2 Communication with National Health Service Litigation Authority (NHSLA)

It is the responsibility of the Trust solicitor to ensure that appropriate reporting forms are completed and sent to the Legal and Committee Services Manager and forwarded to the NHSLA.

It is the responsibility of the Trust solicitor to ensure that the correct and appropriate category of the claim has been registered with the NHSLA following the agreement of the Legal and Committee Services Manager. The copy of the completed claim form is to be held at the Trust.

It is the responsibility of the Legal Services on solicitor's advice to ensure all required information, copy reports and other appropriate correspondence is forwarded to the NHSLA, together with a summary of the claim prepared by the Trust solicitor within the recorded timetable.

It is the responsibility of the Legal Services to refer all Public Liability/Employers' Liability claims to the NHSLA.

The decision of the NHSLA will be communicated to the relevant parties' e.g. Finance, Estates, Head of Department. Reimbursement will be sent to the Finance Department for processing.

8 Claims Data Collection and Analysis

- 8.1 The Trust uses a proprietary software system (Datix) to collect and store all data relating to claims management within the Trust. This information is used to provide trends and analysis to Directorates on request and inform discussion and learning from the claims management process.
- 8.2 Specific claims data is also provided for meetings with senior Trust management and Directorates as part of the Patient Safety and Quality Review meetings which are held on an ongoing rolling basis. The minutes of these meetings are submitted to the Clinical Governance and Quality Committee which are, in turn, submitted to the Trust Board.
- 8.3 As part of the Quality and Performance Account the number of new claims received per month is reported to the Trust Board and a monthly statement of new and closed claims together with the running total is provided to senior Trust management.

9 Learning from Litigation

9.1 Integrated Governance

Issues that are identified from claims analysis are reported at the Integrated Governance meetings which are held with representatives from the litigation, risk management, Health & Safety and complaints functions. Information on claims highlighted at this stage is then submitted and discussed at the Clinical Risk Group for discussion and dissemination to all Directorates and Departments as part of the process for encouraging learning and promoting improvements in practice based on the aggregated analysis of incidents, complaints and claims by identifying any trends and themes as outlined in the Aggregated Data and Learning from Incidents, Complaints and Claims policy.

9.2 Meetings with Clinical Directorates.

There is a rolling programme of meetings with Clinical Directorates chaired by the Medical Director and attended by Clinical Directors and senior colleagues together with the Director of Quality & Effectiveness and Legal and Committee Services Manager together with the NHSLA Panel Solicitors when all claims in relation to that Directorate are discussed with a risk management perspective.

10 Confidentiality

All documents in relation to claims management are confidential and the Trust's policy on confidentiality (see Confidentiality and Security Data Accreditation Policy) must be adhered to.

11 Support Mechanism for Claimants and Staff

It is important to consider not only how the claimant feels in such situations but also the members of staff being claimed against as this can be an extremely stressful

experience. Briefing meetings will be held prior to any attendance at court as a witness. A range of support mechanisms are provided by the Trust (see Supporting Staff Involved in Traumatic Stressful Incidents, Complaints or Claims Policy).

12 Training

Training for Investigation of Claims is delivered on an as required basis to nominated staff as outlined in the Mandatory Training Policy and may include individual sessions or training delivered by the Trust Solicitors.

13 Equality and diversity

The Trust is committed to ensuring that, as far as is reasonably practicable, the way we provide services to the public and the way we treat our staff reflects their individual needs and does not discriminate against individuals or groups on any grounds. This document has been appropriately assessed.

14 Monitoring compliance

Standard / process / issue	Monitoring and audit			
	Method	By	Committee	Frequency
Learning Lessons From Claims	A summary of litigation cases and ongoing claims together with details of allegations and procedural changes.	Director of Quality and Effectiveness	Corporate Governance Committee	Quarterly
	Integrated Governance Report reports the number of claims, Solicitor's Risk Management Reports and salient issues for organisational learning	Legal & Committee Services Manager/Head of Patient Safety and Risk	Clinical Risk Group.	Bi-monthly
Claims numbers and categories	Monthly figures on claims received included in Quality Account	Legal and Committee Services Manager	Board	Monthly
Claims Management	Annual audit will be carried out to ensure that the processes for managing claims are effective and in line with policy.	Clinical Governance & Risk Department	Corporate Governance Committee	Annually

15 Consultation and review

The policy has been reviewed in consultation with the Trust Legal & Committee Services. The person responsible for the audit/review of this policy will be the Legal & Committee Services Manager. Comments have been invited from the Director of Estates and Facilities.

16 References

- CNST Scheme Rules
<http://www.nhsla.com/Claims/Documents/CNST%20Rules.pdf>
- LTPS Scheme Rules
<http://www.nhsla.com/Claims/Documents/LTPS%20Scheme%20Rules.pdf>
- PES Scheme Rules
<http://www.nhsla.com/Claims/Documents/PES%20Scheme%20Rules.pdf>

17 Associated Documents

- [Aggregated data and learning from incidents, complaints and claims](#)
- [Insurance Management Policy](#)
- [Management and Reporting of Accidents and Incidents Policy](#)

The Newcastle upon Tyne Hospitals NHS Foundation Trust

Equality Analysis Form A

This form must be completed and attached to any procedural document when submitted to the appropriate committee for consideration and approval.

PART 1

1. Assessment Date:
2. Name of policy / strategy / service:
3. Name and designation of Author:
4. Names & designations of those involved in the impact analysis screening process:
5. Is this a: Policy Strategy Service
Is this: New Revised
Who is affected Employees Service Users Wider Community
6. What are the main aims, objectives of the policy, strategy, or service and the intended outcomes? *(These can be cut and pasted from your policy)*
7. Does this policy, strategy, or service have any equality implications? Yes No

If No, state reasons and the information used to make this decision, please refer to paragraph 2.3 of the Equality Analysis Guidance before providing reasons:

8. Summary of evidence related to protected characteristics

Protected Characteristic	Evidence, i.e. What evidence do you have that the Trust is meeting the needs of people in various protected Groups	Does evidence/engagement highlight areas of direct or indirect discrimination? If yes describe steps to be taken to address <i>(by whom, completion date and review date)</i>	Does the evidence highlight any areas to advance opportunities or foster good relations. If yes what steps will be taken? <i>(by whom, completion date and review date)</i>
Race / Ethnic origin (including gypsies and travellers)	None relevant to this policy	No	No
Sex (male/ female)	None relevant to this policy	No	No
Religion and Belief	None relevant to this policy	No	No
Sexual orientation including lesbian, gay and bisexual people	None relevant to this policy	No	No
Age	None relevant to this policy	No	No
Disability – learning difficulties, physical disability, sensory impairment and mental health. Consider the needs of carers in this section	None relevant to this policy	No	No
Gender Re-assignment	None relevant to this policy	No	No
Marriage and Civil Partnership	None relevant to this policy	No	No
Maternity / Pregnancy	None relevant to this policy	No	No

9. Are there any gaps in the evidence outlined above? If 'yes' how will these be rectified?

No

10. Engagement has taken place with people who have protected characteristics and will continue through the Equality Delivery System and the Equality Diversity and Human Rights Group. Please note you may require further engagement in respect of any significant changes to

policies, new developments and or changes to service delivery. In such circumstances please contact the Equality and Diversity Lead or the Involvement and Equalities Officer.

Do you require further engagement? Yes No

11. Could the policy, strategy or service have a negative impact on human rights? (E.g. the right to respect for private and family life, the right to a fair hearing and the right to education?)

No

PART 2

Name:

Steve Kirkup

Date of completion:

10.7.15

(If any reader of this procedural document identifies a potential discriminatory impact that has not been identified, please refer to the Policy Author identified above, together with any suggestions for action required to avoid/reduce the impact.)