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 NHS Resolution (NHSR) (formerly the NHS Litigation Authority), 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 Risk Management Assurance Committee

The Risk Management Assurance 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, Royal Victoria Infirmary. 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 one set of case notes.
- Request a schedule of all radiology, scans and images.
- Copy records must be provided to the claimant’s solicitors within 40 days of the request subject to payment of the fee.
- Request clinical comments 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.
- Once the comments are received, assess whether the claim meets the criteria for reporting the matter to the National Health Service Resolution (NHSR) in accordance with the CNST Reporting Guidelines
- 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  Employers’ Liability Claims

Where a claim is pursued by an employee for personal injuries sustained at work is considered to be low value (i.e. damages less than £25,000) it is the responsibility of the Claimant’s solicitor to submit a Claim Notification Form (CNF) to NHSR via the Claims Portal.
It is the responsibility of NHSR to acknowledge the claim to the Claimant's solicitor within 1 day. Once the claim has been acknowledged NHSR will forward the CNF to the Trust to enable investigations of the allegations. A decision must then be made within 30 days to either admit liability. If liability is admitted within the protocol period the Claimant’s solicitor is subject to fixed costs as provided by Part 45 of the Civil Procedure Rules.

Where liability is denied the claim then exits the portal and is no longer subject to the benefit of the fixed fees.

Whenever a claim does not fall under within the claim portal (either due to a high value claim or that the circumstances are not straight forward) then the Claimant’s solicitor will serve the Trust with a formal Letter of Claim. Upon receipt of a letter of claim no response or comment should be made but the letter should be passed immediately to the Legal Services team. Claims in this category will be referred immediately to the NHSR.

The Trust will then have three months from acknowledgement of the Letter of Claim to investigate and provide a formal Letter of Response.

Investigation of Employer’s Liability claims may involve liaising with the Occupational Health Department, Heads of Department and other Trust employees relating to the collation of relevant statements and reports.

6.3 Public Liability Claims

Where a claim by a member of the public is pursued against the Trust for personal injuries and it is considered to be low value (i.e. damages less than £25,000) it is the responsibility of the Claimant’s solicitor to submit a Claim Notification Form (CNF) to NHSR via the Claims Portal.

It is the responsibility of NHSR to acknowledge the claim to the Claimant’s solicitor within 1 day. Once the claim has been acknowledged NHSR will forward the CNF to the Trust to enable investigations of the allegations. A decision must then be made within 40 days to either admit liability. If liability is admitted within the protocol period the Claimant’s solicitor is subject to fixed costs as provided by Part 45 of the Civil Procedure Rules.

Whenever a claim does not fall under within the claim portal (either due to a high value claim or that the circumstances are not straight forward) then the Claimant’s solicitor will serve the Trust with a formal Letter of Claim. Upon receipt of a letter of claim no response or comment should be made but the letter should be passed immediately to the Legal Services team. Claims in this category will be referred immediately to the NHSR.

This process will involve liaising with relevant Departmental Heads and other senior personnel to collate statements and reports.
6.4 **Property Expenses Scheme**

The Director of Estates deals with all Property Expenses.

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

Claims relating to damage or theft of property should be immediately notified in writing to the Director of Estates who will in turn report the claim to the NHSR. 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 regarding the exact nature and cause of the damage or loss and statements obtained from any witnesses. The Director of Estates 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 supplies 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 NHSR schemes but are managed by the Director of Estates for all sites. Claims of this type include, e.g. lost dentures and lost spectacles and should be forwarded to the Director of Estates.

7 **Communication with Stakeholders**

7.1 All stakeholders including the appropriate Solicitor and the NHS Resolution 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 Resolution(NHSR)

It is the responsibility of the Legal Services to refer all Clinical Negligence Scheme for Trusts claims to NHSR using the Claims Reporting tool.

It is the responsibility of the Legal Services department to ensure all required information, copy reports and other appropriate correspondence is forwarded to the NHSR within the recorded timetable.
It is the responsibility of the Legal Services to refer all Public Liability/Employers’ Liability claims to NHSR.

The decision of NHSR 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 NHSR 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

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

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.

16 References

- CNST Scheme Rules
- LTPS Scheme Rules
- Pre Action Protocol for Low Value Personal Injury (Employers’ Liability and Public Liability) Claims
- Civil Procedure Rules Part 45
  [https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part45-fixed-costs#rule45.18](https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part45-fixed-costs#rule45.18)
- Pre Action Protocol for Personal Injuries
- PES Scheme Rules

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: 08.05.17

2. Name of policy / strategy / service:
   Claims Management Policy

3. Name and designation of Author:
   Emma Stonehouse Legal & Committee Services Manager

4. Names & designations of those involved in the impact analysis screening process:

5. Is this a:  
   Policy X  Strategy  Service
   Is this:  
   New  Revised X
   Who is affected  Employees X  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)
   Guidance on how claims are to be dealt with within the organisation involving third parties such as the NHS Resolution (NHSR), 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).

7. Does this policy, strategy, or service have any equality implications? Yes  No X

   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:
   This procedure relates specifically to the administration of legal claims, usually between the legal team and solicitors. It does not directly involve communication with people who need communication support or lack mental capacity
## 8. Summary of evidence related to protected characteristics

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

## 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 [x]
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: Emma Stonehouse

Date of completion: 08.05.17

(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.)