

## Claims Management Policy (N-057)

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| Version Number:                    | 5.1  |
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| Name of approving body:            | Information Governance Group   |
| Date full policy approved:         | January 2021 (V5.0)  |
| Date Ratified at Trust Board:      | January 2021   |
| Next Full Review date:             | February 2026  |

|  |                                   |
|--|-----------------------------------|
| <i>Minor amendments made prior to full review date above (see appended document control sheet for details)</i> |                                   |
| <i>Date approved by Lead Director:</i>   | <i>IG Group – 9 February 2023</i> |
| <i>Date EMT as approving body notified for information:</i>  | <i>February 2023</i>              |

*Policies should be accessed via the Trust intranet to ensure the current version is used*

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## 1. INTRODUCTION

This policy details the structure and framework for the management of all claims, the timescales, roles and responsibilities.

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.

The Trust is usually the defendant within the claims process. A claimant litigates a claim pursuant to Civil Procedure Rules (“CPR”) and pursuant to a relevant Pre-action Protocol. The Trust, as a defendant to the litigation, must adhere to CPR and the Protocol, to avoid Court sanctions that include Court Orders for costs being made against the Trust.

The NHS Resolution (“NHSR”) provides cover and claims management for NHS business. Commercial insurance policies provide cover for non NHS business, for example income generation activities. The Trust must comply with the insurers’ terms and conditions in order to secure indemnity under their schemes.

## 2. SCOPE

This Policy applies to all employees of the Trust, all Social Services mental health staff who are seconded to the Trust, contract and agency staff and other people working on Trust premises.

## 3. POLICY STATEMENT

Humber Teaching NHS Foundation Trust (“The Trust”) is committed to the timely and effective handling of any Claim brought against the Trust.

The rationale for having a Claims Management Policy is to ensure that public funds are protected by minimising risks, limiting Trust exposure to liability, ensure lessons are learnt and minimising any compensation and legal costs payable by the Trust.

## 4. DUTIES & RESPONSIBILITIES

### Trust Board

The Trust Board is responsible for ensuring that the Trust is doing its reasonable best to manage its affairs through the implementation of internal controls to manage risk. This includes ensuring that the Trust has appropriate procedures in place for the management of clinical negligence, personal injury, third party liability and property claims.

### Chief Executive

The Chief Executive has overall responsibility for the Trust’s programme of Risk Management.

### Head of Information Governance, IG and Legal Services Manager and Data Protection Officer

The head of Information Governance and Legal Services and Data Protection Officer (“IG and Legal Services Manager”) is responsible for managing the day-to-day claims management process.

The IG and Legal Services Manager is responsible for:

- Liaising with the NHSR, solicitors and claimants.

- Ensuring compliance with the pre-action protocols for personal injuries and resolution of clinical disputes.
- Notifying all new claims and updates (as a claim progresses) to the Clinical Risk Management Group weekly meeting where a decision is made on any immediate action that is required to minimise risk of similar claims.
- Reporting current claims details (factual and financial) to the Trust Board using the Reportable Log.
- Establishing and maintaining contact with internal and external stakeholders.
- Ensuring that claims are examined in conjunction with complaints, reported incidents, accidents and near misses to identify trends to ensure that action is taken on these.
- Identifying when investigations are required and facilitating the investigation process with the involvement of relevant Trust managers and/or other employees.

### **The Legal Services Team**

The Legal Services and IG Officer supports and deputises for the IG and Legal Services Manager.

Other members of the legal services team are the Legal and IG Support Officer and the Legal Services (Safeguarding) Paralegal.

### **Directors/Managers**

All Directors and managers are responsible for ensuring that any reported incidents or complaints that could potentially result in a claim being made against the Trust are immediately notified to the IG and Legal Services Manager.

Managers will be responsible for ensuring that all reporting requirements are fulfilled, e.g. completion of Adverse Incident Report Forms, Datix, RIDDOR Reporting etc.

Additionally, managers will participate in any necessary investigations in accordance with the Trust's Adverse Incident Reporting Policy.

### **Trust Staff**

All staff are responsible for referring, without delay, all claims and potential claims to their line manager and should not attempt to deal with the matter themselves. The relevant line manager must then promptly notify the IG and Legal Services Manager of the full details of the claim or potential claim.

All staff are required to participate fully in the management of claims through providing:

- Full disclosure of any relevant documents within their possession or control that are relevant to a notified claim or any potential claim;
- Verbal explanation of disclosed documents (where required) to clarify issues or allegations raised in connection with a claim.

All staff should retain and maintain an archive of documents in particular Risk Assessments (current and previous work place risk assessments) and any other documentation, to ensure full disclosure can be given in the event of any claim being litigated in the future.

Please refer to Appendices One and Two as detailed duties are included in those documents.

### **Clinical Risk Management Group**

The Clinical Risk Management Group shall receive reports on new claims presented to the Trust which contain a clinical risk. The IG and Legal Services Manager shall be responsible for providing the CRMG with ongoing updates on existing cases.

## 5. PROCEDURES

The IG and Legal Services Manager is responsible for drafting and updating the Claims Management Policy.

The Claims Management Policy acknowledges root cause analysis (RCA) applied in the Serious Untoward Incident (SI) process.

The procedure for the implementation of this policy also recognises the importance of support mechanisms, appreciating the claimant's feelings and additional recognition of the inevitable stressful situation posed to Trust staff involved in an incident when allegations of negligence and/or breaches of statutory duties are made by the claimant.

All formal and potential claims that have a clinical risk are escalated to the Clinical Risk Management Group (CRMG) on a week basis by the IG and Legal Services Manager, where the discussions are minuted and any immediate actions taken forward. All new claims and claims updates are reported on the Reportable Log which is presented to the Trust Board by the Executive Director of Nursing, Allied Health and Social Care Professionals.

All complaints are logged onto Datix and the system is updated with supporting information and final response letters.

Every member of staff is expected to co-operate fully with the operation of the Claims Management Policy.

### 5.1. Definition of a Claim

A claim is defined as;

- An allegation of negligence and/or a demand for compensation made following an adverse incident resulting in personal injury, damage to property or economic loss, or
- any incident that carries significant litigation risk for the Trust, or
- a demand for compensation made following an adverse incident resulting in damage to property and/or personal injury.

Defining an incident as a 'Claim' in the absence of a demand for compensation does not necessarily mean that compensation will be paid. It simply means that a preliminary analysis may be required and the incident may need to be reported to the NHSR.

A claim is described to be a "litigated claim" once Court proceedings are issued. A claim in the earlier; pre-litigated stage is described to be within the "pre-action" period. There are Pre-action Protocols that impose tight time deadlines even before a claim becomes litigated. The Claims Management Policy "References" section details hyperlinks to the relevant Pre-action Protocols.

### 5.2. The NHSR Schemes Clinical Negligence

These claims concern acts or omissions that occur as part of clinical care (including claims against Trust employed General Practitioners). Clinical negligence claims are managed via the requirements of the:

- Clinical Negligence Scheme for Trusts (CNST) for any claim arising from an incident after 1 April 1995
- Existing Liabilities Scheme (ELS) for any Claim arising from an incident prior to 1 April 1995.

### **Liability to Third Parties Scheme (LTPS) (Employer’s Liability, Public Liability, Products Liability)**

These claims are usually made by staff or members of the public and relate to non-clinical incidents.

Claims arising from Liability to Third Parties are managed via the requirements of the Risk Pooling Scheme for Trusts (RPST).

### **Property Expenses Scheme (PES)**

These Claims concern damage to property and buildings.

Claims arising from Property Expenses are managed via the requirements of the Property Expense Scheme (PES).

## **5.3. Excesses**

The NHSR schemes have excess limits for each individual Claim. Any Claim for compensation paid below the excess limits will therefore be payable in full by the Trust. The excess relevant to each NHSR scheme is as follows:

| <b>Type of Claim</b>                     | <b>Excess</b>   |
|--|---|
| Clinical Negligence (CNST)               | £0  |
| Employers’ Liability                     | £10,000   |
| Public Liability                         | £3,000  |
| PES Schedule 2 – Property Damage Expense | Buildings £20,000<br>Contents £20,000<br><br>Cap on buildings and contents of £1m<br><br>(The Trust has commercial insurance for buildings over the value of £1m) |
| PES Schedule 8 – Contract Works Expense  | Damage to existing structures £20,000   |

## **5.4. Who may make a Claim?**

Claimants may pursue a Claim for compensation against the Trust when the Trust owed a duty of care to the Claimant and where it is alleged that the Trust has breached that duty of care, alleging that the breach has caused the Claimant loss and/or damage. The Claimant will claim compensation for the loss or damage, plus incidental legal costs incurred through pursuing the Claim.

Potential Claimants can include (not exhaustive list):

- patients,
- family members or anyone acting on behalf of a patient (living or deceased),
- Trust employees who have suffered personal injuries suffered in the course of their employment,
- visitors or trespassers on Trust premises pursuant to the Occupiers Liability Acts 1957 & 1984.

## **5.5. Triggers for invoking the Claims procedure**

It is mandatory to invoke this procedure upon receipt of a Claim Form and/or a formal Letter of Claim (“LOC”) in order to ensure compliance with the Civil Procedure Rules, Personal Injury Pre-action Protocol or the Clinical Negligence Pre-action Protocol (as relevant) to avoid Court sanctions that include Court Orders requiring the Trust to pay legal costs and/or damages to the claimant.

The potential claimant of a clinical negligence claim will request access to his/her medical records and is required by the Clinical Negligence Pre-action Protocol to notify the Trust at the point of accessing his/her records that he/she has instructed solicitors to investigate a potential claim for clinical negligence. The Trust is then on notice to anticipate a LOC and can lodge a CNST Claim form to notify the NHR of a claim or potential claim. The claims procedure can be commenced at this stage before receiving a formal LOC.

Any complaint can be a potential claim for compensation. The Claims management and complaints management procedures will be linked via communication between the respective managers responsible for both procedures. A complaint can therefore be re-directed to the Claims procedure when deemed appropriate.

#### **5.6. Communication for lessons learned**

During the process of the investigation of a claim or the claims management process, the Trust may identify areas for shared learning. Where learning opportunities are identified during litigation then the IG and Legal Services Manager will share this with the relevant Director/Head of Service and at CRMG to allow for continuous improvement in safety performance to be made.

The NHR may, in some cases notify the Trust of learning points via the Solicitors Risk Management Report on Claims. Action plans from these reports will be discussed at CRMG to ensure all necessary actions have been taken. If actions have not been taken the reasons why and how this decision was made will be clearly documented.

The IG and Legal Services Manager will communicate the identified lessons to relevant internal and external stakeholders. The IG and Legal Services Manager will involve, when necessary, other resources in the Trust including but not limited to;

- Clinical Governance Meeting
- Clinical Risk Management Group
- Executive Management Team
- Operational Delivery Group

#### **5.7. Timescales and procedures for the exchange of information with other parties**

The management of a claim must follow strict time deadlines laid down by Civil Procedure Rules and the Pre-action Protocol relevant to the claim.

For CNST claims there is a Clinical Negligence Pre-action Protocol.

For all non-clinical claims involving personal injury there is a Personal Injury Pre-action Protocol.

Both Pre-action Protocols can be accessed via hyperlink detailed within the Claims Management Policy "References" section.

The timetables and internal processes that are followed to manage claims are outlined in the Appendices A, B and C.

There are NHR "Notes for Guidance" to be read in conjunction with NHR schemes, these can be accessed via hyperlink detailed within the Claims Management Policy "References" section.

#### **5.8. Confidentiality**

Attention will be paid at all times to the confidentiality of data when sharing documentation and correspondence relevant to Claims Management on a "need to know basis", giving regard to the Trust's Caldicott and Data Protection Policy.

Staff who are involved directly or indirectly in any particular claim should appreciate the highly sensitive nature of confidential and / or legally privileged information that they will have access to. For example financial reserve limits placed on the value of a claim are limited to a “need to know” basis; confidentiality of this information is particularly acute at such time that any negotiations are underway to settle the claim. Staff may have access to legally privileged information that if shared may unfairly jeopardise the Trust defending a claim.

The duty of confidentiality is particularly critical when the claimant is an employee who must not gain direct or indirect access to legally privileged information about his/her specific claim.

## 5.9. Support for staff

The Legal Services team provides legal support or advice to all Trust staff involved in legal processes and/or attending Courts, including the claims management process.

The Trust has an obligation pursuant to NHSR Risk Management standards to support staff involved in traumatic/stressful incidents, complaints or claims. This is organised in strict confidence via Staff Counselling Service and the Occupational Health Department and reference is made to the separate Policy dealing with this clinical support.

The Legal Services team are bound by professional duties owed to the Court. This is relevant in two significant respects:

- The Legal Services team cannot provide legal support if doing so poses a conflict of interest with representing the Trust. The potentials for conflict of interest relevant to the Claims Management Policy arises if anyone requests legal support or advice for the claimant and/or witnesses supporting the claimant’s claim against the Trust.
- The IG and Legal Services team cannot misrepresent any evidence to the Court. If a witness wants to make an anonymous disclosure, they should adhere to separate Trust policy (Whistle Blowing) because once a disclosure (albeit anonymous) is shared with the Legal Services team, this has significant ramifications for various legal processes, including the management of the Claim. All employees are expected to adhere to the Trust’s [Behavioural Standards](#) at all times.

## Being Open

The Trust believes in being open and honest to patients, relatives, carers, and the public about the causes of any unexpected harm that results from the way we care for and treat our patients.

NHS provider bodies registered with the Care Quality Commission (CQC) are required to comply with the Statutory Duty of Candour. The statutory Duty of Candour does not require a breach of duty giving rise to a clinician negligence claim.

Duty of Candour is explained in the Trust-wide Policy Being Open and Duty of Candour Policy and Procedure. In essence, this involves giving patients accurate, truthful, prompt information when mistakes are made and treatment does not go to plan. The NHSR endorses health providers being open when errors are made and harm caused and to say sorry to the patient, their family and carers, as well as to support learning and improve safety.

As soon as it is practical, following a Patient Safety Incident, it shall be the responsibility of the Patient Safety & Governance Team to ensure that:

- A Duty of Candour letter is to be sent as soon as practicable but where possible be no longer than 10 working days from the date of the incident.
- Copies of the documentation capturing candour in relation to the incident, including the documented entries made within health records must be sent to the Trust’s Legal Services team as soon as possible as this documentation has to be forwarded to the NHSR as part of the claim reporting process.



It is both natural and desirable for clinicians who have provided treatment which produces an adverse result, for whatever reason, to sympathise with the patient or the patient's relatives and to apologise for any shortcomings in treatment. An apology does not constitute an admission of liability.

**Requirements for documenting all communication:**

- If the incident has been coded as high or catastrophic, a full RCA investigation will be undertaken. The patient and relatives should be given this information and a contact person will be agreed with the patient and relatives. The contact person will agree with the patient or relative the scope, frequency and method of information sharing. They will be responsible for keeping the patient and relatives up-to-date with how the investigation is progressing, maintaining a dialogue apology, within 14 days explaining how and if possible, why the error occurred with the treatment/care. If this information is not available, provide an explanation as to how the error will be investigated and when they can expect to hear more details. This letter will clarify in writing the information given, reiterate key points, record action points and assign responsibilities and deadlines. by addressing any new concerns, share new information once available and provide information on counselling as appropriate.
- A separate record linked to the patient's notes with a complete, accurate record of the discussion(s) including date and time of each entry, what the patient and/or the relatives have been told and a summary of agreed action plans.
- There must clear records of communications kept with all staff involved

Reference is also made to the NHSR "Notes for Guidance" to be read in conjunction with the NHSR schemes, these can be accessed via hyperlink detailed within the Claims Management Policy References section. .

**5.10. Court appearances**

The Claimant has the burden of proving his/her Claim before a Trial Judge on the balance of probabilities (the test of something being more probable than not, or over and above 51% + probability).

A Claim can be discontinued or settled at any stage prior to trial. Only a small proportion of Claims reach Trial. However, in circumstances where:

- the Trust maintains a Defence (denying liability wholly or in part to the allegations made by the Claimant) and/or
- where terms of settlement cannot be reached between the Trust and the Claimant,

then the Claim will proceed to trial. The specific Court hearing the Claim is determined by the value and complexity of the Claim.

When a Claim proceeds to trial, the witnesses, whose evidence remains in contention, will be called to attend Court to give oral evidence at the trial.

As a Claim becomes litigated, Trust staff who have given witness evidence will be kept informed on the progress of the Claim and will already be aware of their involvement to participate at trial.

Staff attendance as a witness at trial can be voluntary, but can be made compulsory when a subpoena (or witness summons) is served on the witness. When witnesses are ordered to attend Court (by subpoena or witness summons) then the Court can impose penalties for non-attendance.

The Legal Services team (and if appropriate the Trust's externally appointed Solicitor/Barrister see below) will provide full continued legal support to staff witnesses who

are required to attend Trial and give oral evidence. The staff witness should then consider (or re-consider) additional clinical support via the staff Counselling Service and/or the Occupational Health Department.

Staff witnesses may be called to attend trial by the Claimant or by the Trust (the Defendant in the Court proceedings). See previous paragraph regarding potential for “conflict of interest” and the limitation this imposes to legal support offered by the Trust’s Legal Services team to staff witnesses in exceptional circumstances.

#### **5.11. Communication with relevant stakeholders**

The IG and Legal Services Manager will maintain communication with relevant stakeholders in a timely manner, in line with the relevant pre-action protocol where appropriate.

During the investigation and management of Claims, the Trust may consider involving external agencies such as:

- Police,
- Health and Safety Executive (HSE),
- Care Quality Commission,
- H M Coroner,
- Nursing and Midwifery Council,
- General Medical Council,
- Other relevant professional bodies,
- External stakeholders
- Expert witnesses
- Third party/independent investigators if there is insufficient expertise or test equipment within the Trust, political consideration or the need to eliminate bias.

#### **5.12. Liaison with third parties NHS Resolution (NHSR)**

The IG and Legal Services Manager has corporate responsibility for communication with the NHSR in connection with the management and/or litigation of Claims.

The IG and Legal Services Manager has delegated authority to sign Court papers to facilitate the claims management process.

#### **Claimants**

A Claimant may be legally represented or act as a litigant in person.

The IG and Legal Services Manager or any other person having direct oral communication with the Claimant (including potential Claimant) or the Claimant’s Solicitor (for example in connection with the SI process) should prepare a contemporaneous file note summarising the contact, detailing the date and time of the communication, names of persons involved in the oral communication, detailing if the communication was a meeting or telephone contact, a summary of the information discussed and any proposed further action carefully noting any relevant deadline dates.

A copy of this file note should be provided to the Legal Services Team, to be filed on the Claim file. If the Claimant is a litigant in person, best efforts should be made to agree the summary of the discussion when recording this within the file note.

Any correspondence between the Trust and a Claimant (to include a potential Claimant) should be forwarded to the Trust’s Legal Services team to be filed on the Claim file.

If a Claimant wants to make a claim against the Trust please correspond with the Trust's legal team at:

Legal Services  
Humber Teaching NHS Foundation Trust  
Mary Seacole  
Willerby Hill  
Hull  
HU10 6ED

The first step is to send a formal letter of claim setting out the circumstances of the claim, the allegations in respect of breach of duty of care, position on causation, value of claim, detail of heads of losses (compensation), details of the injuries (as appropriate), and any funding arrangements to support the claim process. All claimants are advised to speak to independent legal advisors as claims involve legal tests such as duty of care and causation. The Trust's Legal team will then report the claim to its insurers (NHS Resolution) who will investigate the claim and provide a response within 4 months of receipt.

The Trust does not accept service by email unless it has been agreed in advance.

### **Disclosure**

The Pre-Action Protocols and Civil Procedure Rules impose upon the Trust an onerous duty in respect of disclosure and the Trust must comply.

Failure to comply with the Trust's disclosure requirements in pre-litigated and litigated Claims can result in an adverse Court Order made against the Trust.

All Trust relevant documents (paper and electronic) relating to the Claim will need to be released to the NHSR and their Appointed Panel Solicitors (the Trust's Defence Team) who are instructed to assist with the Claim and who are considered an 'extension' of the Trust. Documents may be released to them without the Claimant's consent. This includes the Claimant's personnel file but not their Occupational Health Records as these do not belong to the Trust, therefore, Occupational Health Records must not be sent without the consent.

Where a patient assault has occurred the alleged perpetrators' records may be released to the Trusts Defence Team without the consent of the person involved.

The Trust is under a duty to provide discovery of all documents relevant to the Claim. The obligation is a continuing one therefore, if additional records / documents turn up during the life of the claim and which was for whatever reason unavailable at the outset, then they MUST be disclosed to the IG and Legal Services for appropriate action immediately up on discovery.

### **Solicitors and Barristers**

External Solicitors acting for the Trust to defend litigated Claims are appointed by the NHSR. The IG and Legal Services Manager has day to day contact with external Solicitors once appointed to act for the Trust, usually once a Claim becomes litigated. Staff should contact the Trust's external Solicitors via the IG and Legal Services Manager.

The external Solicitors appointed to represent the Trust may also instruct a Barrister to deal with the advocacy at the Trial.

Staff witnesses who are involved in litigated Claims, whilst becoming involved in the Claims process will be familiar with the Trust Solicitor/Barrister prior to Trial by attending Case Conferences held in preparation of the Trial.

The Claimant is usually represented by a Solicitor. The Claimant's Solicitor may also instruct a Barrister to deal with the advocacy at Trial on behalf of the Claimant.

#### **H.M. Coroner**

The IG and Legal Services Manager is responsible for preparing, collating and submitting evidence to the Coroner in connection with patient deaths. The Coroner and the Coroner's Officers advise the IG and Legal Services Manager when the bereaved family members are intimating a complaint and/or a Claim.

#### **5.13. Training**

Defensible Documentation training is available for all practitioners. This is mandatory for clinical staff and should be refreshed on a three-yearly basis.

Root Cause Analysis training is available to all staff Band 6 and above.

A Legal Services Handbook is available on the Information Governance and Legal Services part of the Trust's intranet site. The Handbook explains how staff can access help, advice and support when involved in any legal process.

#### **5.14. Investigation Process**

Most claims will arise from incidents, which have already been reported in accordance with the Trust's Adverse Incident Reporting Policy. This details the process to be followed for:

- Incident risk categorisation
- Level of investigation required
- Reporting to external agencies
- Incident investigation process
- Root cause analysis
- Identification of lessons to be learnt and sharing these.

The investigation process defined within these documents will be followed to support the management of any claims or potential claims.

#### **Assessing Risks**

The IG and Legal Services Manager will report all new claims to the Executive Director of Nursing, Allied Health and Social Care Professionals.

The IG and Legal Services Manager will identify where additional levels of investigation are required relating to a claim and request these to be undertaken.

#### **5.15. Action planning process**

The Trust's Adverse Incident Report Form includes an action plan section. Where relevant, managers are required to complete this section.

Where an incident has led to a Serious Untoward Incident (SI) Report investigation, the SI Report will incorporate a detailed action plan.

Information relating to action plans are entered onto the Incident Reporting System (Datix).

CRMG monitors the implementation of action plans where appropriate.

The Patient Safety and Governance Team receives regular reports on the incidents reported and the implementation of action plans.

Actions plan arising from investigations of claims will be completed using the template included in the incident report form and monitored in the same way.

## 6. IMPLEMENTATION

This policy will be disseminated by the method described in the Policy for the Development and Management of Procedural Documents.

Awareness of this Policy will be via Team Talk. It should then be discussed and shared via the interactive sessions within MDT/Team Meetings by senior staff within the Team/unit.

## 7. MONITORING AND AUDIT

Monitoring will be achieved by an annual audit by the Information Governance and Legal Service Manager or through nominating a lead, aiming for 75% compliance with the policy. The audit will include compliance with Appendix 3. Results will be included in the Annual Clinical Governance Report. Issues identified will require the formation of an action plan to be reviewed and monitored through the Governance Committee.

In addition there shall be quarterly reporting to the Executive Management Team of all claims and reviewing risks reported from investigation of those claims.

## 8. REFERENCES/EVIDENCE/GLOSSARY/DEFINITIONS

### CONSULTATION

Consultation took place when this policy was originally formulated, with the following groups:

- Operational Managers
- Clinical Risk Management Group

Leads named in Appendices 1 and 2, namely:

- Finance Director
- Medical Director
- Executive Director of Nursing, Allied Health and Social Care Professionals
- Safety Advisor and the Accredited Local Security Management Specialist (ALSMS)
- Risk and Patient Safety Systems Officer
- Payroll Services Manager
- Personnel Advisor
- Training Support Team Manager
- Head of Estates
- Estates Services Manager
- Estates Information Officer
- Clinical Governance Specialist (Clinical Audit Lead)
- Complaints Manager
- Head of Occupational Health

### REFERENCES

Civil Procedure Rules

Department for Constitutional Affairs, 1998, [http://www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot\\_rcd](http://www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_rcd) [online]. London: The Stationary Office. Available from: [www.dca.gov.uk](http://www.dca.gov.uk)

Department for Constitutional Affairs, 1998. Pre-Action Protocol for Personal Injury Claims [online]. London: The Stationary Office. Available from [www.dca.gov.uk](http://www.dca.gov.uk)

Department for Constitutional Affairs, 1998 Pre-Action Protocol for Personal Injury Claims [online]. London: The Stationary Office. Available from [www.dca.gov.uk](http://www.dca.gov.uk)

The National Health Service Litigation Authority Framework Document. Available from [www.NHSR.com](http://www.NHSR.com) (Publications - Claims publications).

Clinical negligence reporting guidelines fourth edition – January 2007. Available from [www.NHSR.com](http://www.NHSR.com) (Publications - Claims publications)

Non-clinical claims reporting guidelines Available from [www.NHSR.com](http://www.NHSR.com) (Publications - Claims publications)

NHSR Disclosure List. Available from [www.NHSR.com](http://www.NHSR.com) (Publications – Claims publications)

**Trust policies or documents**, including:

Risk Management Strategy, which covers Adverse Incident Reporting and Learning Lessons

Complaints and PALS Policy

Supporting Employees Involved in Traumatic/Stressful Incidents, Complaints or Claims Policy

**This policy is a requirement by the NHSR**

## Appendix 1 – List of Staff Duties – RPST claims

### List of Staff Duties to implement the Claims Management Policy

#### RPST claims only (not clinical negligence Claims)

| Name of personnel and/or job title  | Department   | Relevant documents/responsibility<br>*Please note that what is listed here is not an exhaustive list of all relevant legislation.   |
|---|--|---|
| <b>The Trust Board</b>  | Board  | The Trust Board is responsible for ensuring that the Trust is doing its reasonable best to manage its affairs through the implementation of internal controls to manage risk. This includes approving or delegating the Trust's procedures for the management of claims.  |
| <b>The Chief Executive</b>  | Board  | The Chief Executive has overall responsibility for the Trust's programme of risk management.  |
| <b>Information Governance and IG and Legal Services Manager and Data Protection Officer</b> | Nursing Directorate<br>Clinical Governance Support Team<br>Legal | All Claims require the Claim Form/Particulars of Claim/Letter of Claim to be submitted to the NHSR within 21 days of receipt. All supporting documentation to be provided to the NHSR and/or Trust Solicitors within 28 days from receipt of notification of the Claim.   |
| <b>Medical Director</b><br><br>or any other Executive Director in his/her absence           | Board  | Director signs the List of Documents that is submitted with copy documents to the NHSR when the Claim Form is lodged <b>for employee claims ONLY</b> , confirming all relevant documents have been disclosed.   |
| <b>Safety Advisor &amp; the Accredited Local Security Management Specialist (ALSMS)</b>     |  | Collating all relevant documents for specific Claims, to include (but not exhaustive): <ul style="list-style-type: none"> <li>• Adverse Incident Report Form (also referred to by Protocol as Accident Book Entry)</li> <li>• First Aider report</li> <li>• Surgery record</li> <li>• Foreman/supervisor accident report</li> <li>• Safety representative's accident report</li> <li>• RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations) report to HSE.</li> <li>• Other Communications between Defendants and HSE</li> <li>• Minutes of Health and Safety Committee meeting(s) where accident/matter considered.</li> <li>• Report to DSS.</li> <li>• Documents listed above relative to any previous accident/matter identified by the Claimant and relied upon as proof of negligence.</li> </ul> |

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| <b>Risk &amp; Patient Safety Systems Officer</b>   |  | <ul style="list-style-type: none"> <li>• Any Datix reports</li> <li>• Any Briefing Reports and/or SI Reports</li> <li>• Summary tables detailing all previous similar incidents to the Claim.</li> </ul>  |
| <b>Health &amp; Safety Manager</b>   | Facilities                               | <p>Same documents detailed above for Patient Safety Systems Officer</p> <p>Same documents detailed below for the “specific manager” responsible for Claimant</p> <p>All risk assessments for the accident locus, when that is Trust property.</p>   |
| <b>Specific manager responsible for individual Claimant</b><br>+<br><b>all other managers senior to that manager, including Team Leaders / Modern Matrons/Operational Service Managers</b> | Trust-wide<br><br>differs for each claim | <p>Same documents detailed above for Patient Safety Systems Officer</p> <p>Additionally (but not exhaustive):</p> <p>Documents produced to comply with requirements of the Management of Health and Safety at Work Regulations 1999:</p> <ul style="list-style-type: none"> <li>• Pre-accident Risk Assessment required by Regulation 3.</li> <li>• Post-accident Re-Assessment required by Regulation 3.</li> <li>• Accident Investigation Report prepared in implementing the requirements of Regulations 4, 6 and 9.</li> <li>• Health Surveillance Records in appropriate cases required by Regulation 5.</li> <li>• Documents relating to the employees health and safety training required by Regulation 11.</li> </ul> <p><b>WORKPLACE (HEALTH SAFETY AND WELFARE) REGULATIONS 1992</b></p> <ul style="list-style-type: none"> <li>• Repair and maintenance records required by Regulation 5.</li> <li>• Housekeeping records to comply with the requirements of Regulation 9.</li> <li>• Hazard warning signs or notices to comply with Regulation 17 (Traffic Routes).</li> </ul> <p><b>PROVISION AND USE OF WORK EQUIPMENT REGULATIONS 1998</b></p> <ul style="list-style-type: none"> <li>• Manufacturers’ specifications and instructions in respect of relevant work equipment establishing its suitability to comply with Regulation 5.</li> <li>• Maintenance log/maintenance records required to comply with Regulation 6.</li> <li>• Documents providing information and instructions to employees to comply with Regulation 8.</li> </ul> |



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|  |  | <ul style="list-style-type: none"> <li>• Documents provided to the employee in respect of training for use to comply with Regulation 9.</li> <li>• Any notice, sign or document relied upon as a defence to alleged breaches of Regulations 14 to 18 dealing with controls and control systems.</li> <li>• Instruction/training documents issued to comply with the requirements of regulation 22 insofar as it deals with maintenance operations where the machinery is not shut down.</li> <li>• Copies of marking required to comply with Regulation 23</li> <li>• Copies of warnings required to comply with Regulation 24.</li> </ul> <p><b>PERSONAL PROTECTIVE EQUIPMENT AT WORK REGULATIONS 1992</b></p> <ul style="list-style-type: none"> <li>• Documents relating to the assessment of the Personal Protective Equipment to comply with Regulation 6.</li> <li>• Documents relating to the maintenance and replacement of Personal Protective Equipment to comply with Regulation 7.</li> <li>• Record of maintenance procedures for Personal Protective Equipment of comply with Regulation 7.</li> <li>• Records of tests and examinations of Personal Protective Equipment to comply with Regulation 7.</li> <li>• Documents providing information, instruction and training in relation to the Personal Protective Equipment to comply with Regulation 9.</li> <li>• Instructions for use of Personal Protective Equipment to include the manufacturers' instructions to comply with Regulation 10.</li> </ul> <p><b>MANUAL HANDLING OPERATIONS REGULATIONS 1992</b></p> <ul style="list-style-type: none"> <li>• Manual Handling Risk Assessment carried out to comply with the requirements of Regulation 4(1) (b) (i).</li> <li>• Re-assessment carried out post-accident to comply with requirements of Regulation 4(1) (b) (i).</li> <li>• Documents showing the information provided to the employee to give general indications related to the load and precise indications on the weight of the load and the heaviest side of the load if the centre of gravity was not positioned centrally to comply with Regulation 4(1) (b) (iii).</li> </ul> |
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|  |  | <ul style="list-style-type: none"> <li>• Documents relating to training in respect of manual handling operations and training records.</li> </ul> <p><b>HEALTH AND SAFETY (DISPLAY SCREEN EQUIPMENT) REGULATIONS 1992</b></p> <ul style="list-style-type: none"> <li>• Analysis of work stations to assess and reduce risks carried out to comply with the requirements of Regulation 2.</li> <li>• Re-assessment of analysis of work stations to assess and reduce risks following development of symptoms by the claimant.</li> <li>• Documents detailing the provision of training including training records to comply with the requirements of Regulation 6.</li> <li>• Documents providing information to employees to comply with the requirements of Regulation 7.</li> </ul> <p><b>CONTROL OF SUBSTANCES HAZARDOUS TO HEALTH REGULATIONS 1999</b></p> <ul style="list-style-type: none"> <li>• Risk assessment carried out to comply with the requirements of Regulation 6.</li> <li>• Reviewed risk assessment carried out to comply with the requirements of Regulation 6.</li> <li>• Copy labels from containers used for storage handling and disposal of carcinogenics to comply with the requirements of Regulation 7(2A) (1).</li> <li>• Warnings signs identifying designation of areas and installations, which may be contaminated by carcinogenics to comply with the requirements of Regulation 7(2A) (h).</li> <li>• Documents relating to the assessment of the Personal Protective Equipment to comply with Regulation 7(3A).</li> <li>• Record of maintenance procedures for Personal Protective Equipment to comply with Regulation 7(3A).</li> <li>• Records of tests and examinations of Personal Protective Equipment to comply with Regulation 7(3A).</li> <li>• Documents providing information, instruction and training in relation to the Personal Protective Equipment to comply with Regulation 7(3A).</li> <li>• Instructions for use of Personal Protective Equipment to include the manufacturers' instructions to comply with Regulation 7(3A).</li> <li>• Air monitoring records for substances assigned a maximum exposure limit or occupational exposure standard to comply with the requirements of Regulation 7.</li> </ul> |
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|  |  | <ul style="list-style-type: none"> <li>• Maintenance examination and test of control measures records to comply with Regulation 9.</li> <li>• Monitoring surveillance records to comply with the requirements of Regulation 11.</li> <li>• Documents detailing information, instruction and training including training records for employees to comply with the requirements of Regulation 12.</li> <li>• Labels and Health &amp; Safety data sheets supplied to the employers to comply with the CHIP Regulations.</li> </ul> <p><b>CONSTRUCTION (DESIGN MANAGEMENT) (AMENDMENT) REGULATIONS 2000</b></p> <ul style="list-style-type: none"> <li>• Notification of a project form HSE F10) to comply with the requirements of Regulation 7</li> <li>• Health and Safety Plan to comply with requirements of Regulation 15.</li> <li>• Health and Safety file to comply with the requirements of Regulations 12 and 14.</li> <li>• Information and training records provided to comply with the requirements of Regulation 17.</li> <li>• Records of advice from and views of persons at work to comply with the requirements of Regulation 18.</li> </ul> <p><b>PRESSURE SYSTEMS AND TRANSPORTABLE GAS CONTAINER REGULATIONS 1989</b></p> <ul style="list-style-type: none"> <li>• Information and specimen markings provided to comply with the requirements of Regulation 5.</li> <li>• Written statements specifying the safe operating limits of a system to comply with the requirements of Regulation 7.</li> <li>• Copy of the written scheme of examination required to comply with the requirements of Regulation 8.</li> <li>• Examination records required to comply with the requirements of Regulation 9.</li> <li>• Instructions provided for the use of operator to comply with Regulation 11.</li> <li>• Records kept complying with the requirements of Regulation 12.</li> <li>• Records kept complying with the requirements of Regulation 22.</li> </ul> <p><b>LIFTING OPERATIONS AND LIFTING EQUIPMENT REGULATION 1998</b></p> <ul style="list-style-type: none"> <li>• Record kept complying with the requirements of Regulation 6.</li> </ul> <p><b>THE NOISE AT WORK REGULATION 1989</b></p> |
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|  |                             | <ul style="list-style-type: none"> <li>Any risk assessment records required to comply with the requirements of Regulations 4 and 5.</li> <li>Manufacturers' literature in respect of all ear protection made available to claimant to comply with the requirements of Regulation 8.</li> <li>All documents provided to the employee for the provision of information to comply with Regulation 11.</li> </ul> <p><b>CONSTRUCTION (HEAD PROTECTION) REGULATION 1989</b></p> <ul style="list-style-type: none"> <li>Pre-accident assessment of head protections required to comply with Regulation 3(4).</li> <li>Post-accident re-assessment required to comply with Regulation 3(5).</li> </ul> <p><b>THE CONSTRUCTION (GENERAL PROVISIONS) REGULATION 1961</b></p> <ul style="list-style-type: none"> <li>Report prepared following the inspections and examinations of excavations etc. to comply with the requirements of Regulation 9.</li> </ul> <p><b>GAS CONTAINERS REGULATIONS 1989</b></p> <ul style="list-style-type: none"> <li>Information and specimen markings provided to comply with the requirements of Regulation 5.</li> <li>Written statements specifying the safe operating limits of a system to comply with the requirements of Regulation 7.</li> <li>Copy of written scheme of examination required to comply with the requirements of Regulation 8</li> <li>Examination records required to comply with the requirements of Regulation 9.</li> <li>Instructions provided for the use of operator to comply with Regulation 11.</li> </ul> |
| <b>Payroll Services Manager and Assistant Payroll Manager</b>                          | Finance<br><br>Payroll      | Earnings information when the Trust is the Claimant's employer, specifically requiring: <ul style="list-style-type: none"> <li>pre accident wages for the 13-week period predating the accident</li> <li>post-accident wages for the 13-week period postdating the return to work following absence resulting from the accident</li> </ul>  |
| <b>Personnel Advisor</b> (and/or immediate Line Manager regarding supervision records) | Human Resources Directorate | Personnel records and/or supervision records for the Claimant if he/she is an employee and for other staff involved in the Claimant's care.   |
| <b>Training Support Team Manager</b>   | Training Dept.              | Training records for the claimant and/or other staff on duty at the time of the incident.   |

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| <b>Occupational Health Lead</b>    | Occupational Health        | <b>SUBJECT TO PRIOR SIGNED CONSENT</b> from Claimant employee to authorise disclosure of the claimant's, occupational health records when the Trust is the Claimant's employer.  |
| <b>Head of Estates</b>             | Estates                    | Documents to include, but not exhaustive:<br><br><b>WORKPLACE (HEALTH SAFETY AND WELFARE) REGULATIONS 1992</b> <ul style="list-style-type: none"> <li>• Housekeeping records to comply with the requirements of Regulation 9.</li> <li>• Hazard warning signs or notices to comply with Regulation 17 (Traffic Routes).</li> </ul>   |
| <b>Estates Maintenance Manager</b> | Estates                    | Documents to include, but not exhaustive:<br><br><b>WORKPLACE (HEALTH SAFETY AND WELFARE) REGULATIONS 1992</b><br>Repair and maintenance records required by Regulation 5.   |
| <b>Estates Information Officer</b> | Facilities                 | Plans and diagrams for the accident locus when that is Trust property.<br><br>Photographs of the accident locus when that is Trust property.<br><br>All photographs taken need to have a note attached confirming date and time the photograph was taken and the name and job title of person taking photographs, so that witness evidence can be obtained if the Claim is litigated. The photographs cannot be admitted as evidence at Trial without an accompanying statement. |
| <b>Patient Safety Lead</b>         | Integrated Governance Unit | When the Claimant makes allegations that lessons have not been learned from previous incidents any documents available relevant to this allegation.  |

## Appendix 2 – List of Staff – all claims

### List of Staff Duties to implement the Claims Management Policy

#### ALL claims

| Name of personnel and/or job title  | Department          | Relevant document/responsibility   |
|---|---------------------|--|
| <b>The Trust Board</b>  | Board               | The Trust Board is responsible for ensuring that the Trust is doing its reasonable best to manage its affairs through the implementation of internal controls to manage risk. This includes approving or delegating the Trust's procedures for the management of claims.   |
| <b>The Chief Executive</b>  | Board               | The Chief Executive has overall responsibility for the Trust's programme of risk management.   |
| <b>Information Governance and IG and Legal Services Manager and Data Protection Officer</b> | Nursing Directorate | <p>Appointed Trust lead for day to day management and investigation of all Claims received by the Trust.</p> <p>Notifies all new Claims and updates (as a Claim progresses) to the Clinical Risk Management Group weekly meeting where a decision is made on any immediate action that is required to minimise risk of similar claims.</p> <p>Submitting to the NHR:</p> <ul style="list-style-type: none"> <li>• Claim Form</li> <li>• and all relevant documents.</li> </ul> <p>First point of contact with NHR in relation to individual Claims, responding to NHR correspondence.</p> <p>Meeting with the NHR Claims Inspector (in limited cases but restricted to non-clinical negligence Claims) on Trust property to undertake a Claims Investigation Meeting, together with other key staff involved in the specific Claim.</p> <p>In the circumstances when the NHR Claims Inspector does not attend or when the Claim is a clinical negligence Claim, the Information Governance and IG and Legal Services Manager will be guided by the Integrated Governance Unit to seek input from appropriate Managers to assist with the investigation of the Claim.</p> <p>Maintains communication and updates staff (NOT the Claimant) who are directly connected with the individual Claim.</p> |

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|                                       |   | <p>Collating evidence, taking witness statements and has Corporate Responsibility to sign Court documents on behalf of the Trust.</p> <p>Quarterly report to the Trust's Board via the quarterly combined Risk Management/Complaints/PALS and Claims Report providing an overview of all current Claims.</p> <p>Training/support offered by the Legal Services team to Team Leaders/Modern Matrons and Senior Managers generally to ensure that evidence is carefully preserved and gathered immediately following any incident where a Claim can be anticipated.</p>   |
| <b>All Trust staff</b>                | <b>Trust wide</b><br><br>differs for each claim | <p>Any staff involved in any incident likely to generate litigation should:</p> <ul style="list-style-type: none"> <li>• alert the Legal Services team of the incident and circumstances,</li> <li>• when lodging an Adverse Incident Report Form consider preserving and gathering documentary evidence, seeking guidance, if appropriate, from the Legal Services team.</li> </ul> <p>Alert the Legal Services team <b>immediately</b> should they receive a request for medical records in a matter which could potentially become a Claim against the Trust.</p> <p>Letters of claim and/or Court papers. Any correspondence or documentation relating to the litigation or intimated litigation of any Claim against the Trust should be <b>immediately</b> notified and copied to the IG and Legal Services Manager legal services team. Strict deadlines apply to the management of Claims and delay exposes the Trust to Court sanctions that include the Trust receiving Court Orders to pay legal costs.</p> <p>All staff are required to cooperate fully in the investigation of any Claim, disclosing documents, providing comments or statements as requested in a <b>timely fashion</b>. This applies to current and ex-employees. All employees are covered by the NHS R indemnity.</p> <p>All staff are required to keep any "legally privileged" documents filed separately from the medical records. Legally privileged documents are those produced in contemplation of litigation. The Legal Services team will always file documents for staff on the legal file. These can be made available to staff on request.</p> |
| <b>Clinical Risk Management Group</b> |   | Identifying and taking the necessary actions to promptly manage any ongoing risks highlighted by  |

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|  |                            | <p>a Claim, to minimise the risk of repeat incidents / Claims. The NHSR can refuse to indemnify the Trust for recurring Claims where the Trust fails to implement actions for Lessons Learned.</p> <p>To consider issues raised by Claims to comply with NHSR Risk Management Standards in connection with Lessons Learned.</p>  |
| <b>Medical Records Administration Manager</b>                        | Finance Directorate        | <p>Alert the Legal Services team following receipt of a request for medical records in a matter which is indicated to present a potential Claim against the Trust.</p> <p>Provide copy correspondence received in connection with the access request to the Legal Services team to communicate details of the intimated Claim and to ensure the relevant Pre-action Protocol is followed.</p> <p>Arrange for one duplicate set of copy case notes to be provided to the Legal Services team at the same time as copying the case notes in response to the access request that intimates a potential Claim against the Trust. This assists with the sharing of case notes between the persons involved investigating the potential Claim and/or Solicitors instructed to defend the Claim on behalf of the Trust.</p> |
| <b>Risk and Patient Safety Systems Officer</b>                       | Integrated Governance Unit | <p>Copies of Adverse Incident Report Forms to be forwarded to Information Governance and IG and Legal Services Manager by the Assurance Support Officer where injuries are noted and a Claim for compensation may be anticipated, to enable the Trust to be pro-active in gathering evidence.</p>  |
| <b>Complaints Manager</b>  | Integrated Governance Unit | <p>Two-way dialogue because of the overlap between Claims and Complaints.</p>  |
| <b>SI Leads</b>  | Trust wide                 | <p>The Lead Manager coordinating a Serious Untoward Investigation should be alert to the possibility of a Claim for compensation, maintaining communication with the IG and Legal Services Manager upon this.</p> <ul style="list-style-type: none"> <li>• Two-way dialogue because of the overlap between SI Reporting and Claims</li> <li>• Assisting to identify the root causes of an incident which has resulted or may potentially result in a Claim.</li> </ul>   |
| <b>Specific manager responsible for individual Claimant employee</b> |                            | <ul style="list-style-type: none"> <li>• B177 Industrial Injuries Disablement Benefit Form any Manager receiving (on behalf of the Trust) any paperwork in connection with DSS benefits that arise from injuries arising in the</li> </ul>   |



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| <p><b>and</b></p> <p><b>all other managers senior to that manager, including Team Leaders/Modern Matrons</b></p> |  | <p>workplace should lodge an Adverse Incident Report Form (in the usual way), attaching the relevant paperwork and copy this to the Legal Services team to ensure this is linked with any existing Claim or potential Claim still to be notified.</p> <ul style="list-style-type: none"> <li>• Criminal Injuries Compensation Authority (CICA) correspondence or questionnaires to be forwarded to the IG and Legal Services team for attention <b>before</b> responding to the CICA to ensure this is linked with any existing Claim or potential Claim still to be notified.</li> <li>• To assist and support the Legal Services team when nominated to investigate a Claim, regarding Clinical Negligence Claims.</li> </ul> |
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## Appendix 3 – Protocols

### Pre Action Protocol for Personal Claims Preparation of papers to submit Claims to NHSR

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| Letter of Claim  | IG and Legal Services Manager  | Date of Letter                               |
| Acknowledge receipt of Letter of Claim to Claimant's Solicitors              | IG and Legal Services Manager  | Within 21 days of receipt of Letter of Claim |
| Gather documents requested in Letter of Claim from relevant Trust Managers   | IG and Legal Services Manager in consultation with:<br><br>Patient Safety Systems Officer<br>Health and Safety Manager<br>Manager responsible for individual Claimant<br>Line managers senior to the responsible manager<br>Payroll Services Manager<br>Assistant Payroll Manager<br>Personnel Advisor<br>Training Support Team Manager<br>Occupational Health Lead<br>Estates Services Manager<br>Estates Development Support Officer<br>Estates Maintenance Manager<br>Clinical Audit Lead<br>Medical Records Administration Manager | Within 21 days of receipt of Letter of Claim |
| Gather documents noted in the Pre Action Protocol for Personal Injury Claims | IG and Legal Services Manager in consultation with relevant managers as above  |  |
| Gather additional documents required to make a full disclosure by law        | IG and Legal Services Manager in consultation with relevant managers as above  |  |
| Signature on NHSR List of Documents (employee liability claims only)         | Medical Director (or other Executive Director)   |  |

## Procedure for the management of all claims

- Notify/Update CRMG
- Submit claim within 21 days of receiving Letter of Claim or notification of a potential claim to NHSR
- Coordinate investigation
- Collate evidence
- Coordinate information relating to claims with other Governance Functions
- IG and Legal Services Manager
- IG and Legal Services Manager
- IG and Legal Services Manager in collaboration with:
  - Clinical Risk Management Group
  - Trust Risk Manager
  - Complaints Manager
  - SI Leads
  - Head of Corporate Support
  - Specific managers involved in claims
- Weekly

## Appendix 4: Document Control Sheet

This document control sheet must be completed in full to provide assurance to the approving committee.

|  |   |  |   |
|--|---|--|---|
| Document Type  | Claims Management Policy  |  |   |
| Document Purpose   |   |  |   |
| Consultation/Peer Review:  | Date:   | Group/Individual                                     |   |
| <i>List in right hand columns consultation groups and dates</i>  |   | Operational Managers                                 |   |
|  |   | Clinical Risk Management Group                       |   |
|  |   |  |   |
|  |   |  |   |
| Approving Committee:   | IG Group  | Date of Approval:                                    | February 2021                                       |
| Ratified at:   |   | Date of Ratification:                                |   |
| Training Needs Analysis:<br><i>(please indicate training required and the timescale for providing assurance to the approving committee that this has been delivered)</i> | If applicable   | Financial Resource Impact                            | If applicable                                       |
| Equality Impact Assessment undertaken?   | Yes [ <input checked="" type="checkbox"/> ]   | No [ <input type="checkbox"/> ]                      | N/A [ <input type="checkbox"/> ]<br>Rationale:      |
| Publication and Dissemination  | Intranet [ <input checked="" type="checkbox"/> ]  | Internet [ <input type="checkbox"/> ]                | Staff Email [ <input checked="" type="checkbox"/> ] |
| Master version held by:  | Author [ <input type="checkbox"/> ]   | HealthAssure [ <input checked="" type="checkbox"/> ] |   |
| Implementation:  | <p>This policy will be disseminated by the method described in the Policy for the Development and Management of Procedural Documents.</p> <p>Awareness of this Policy will be via Team Talk. It should then be discussed and shared via the interactive sessions within MDT/Team Meetings by senior staff within the Team/unit. This policy will be disseminated by the method described in the Policy for the Development and Management of Procedural Documents.</p>  |  |   |
| Monitoring and Compliance:   | <p>Monitoring will be achieved by an annual audit by the Information Governance and Legal Service Manager or through nominating a lead, aiming for 75% compliance with the policy. The audit will include compliance with Appendix 3. Results will be included in the Annual Clinical Governance Report. Issues identified will require the formation of an action plan to be reviewed and monitored through the Governance Committee.</p> <p>In addition, there shall be quarterly reporting to the Executive Management Team of all claims and reviewing risks reported from investigation of those claims.</p> |  |   |

| <b>Document Change History: (please copy from the current version of the document and update with the changes from your latest version)</b> |   |            |  |
|---|---|------------|--|
| Version number/name of procedural document this supersedes  | Type of change, e.g. review/legislation | Date       | Details of change and approving group or executive lead (if done outside of the formal revision process)   |
| 2.0   | Review                                  | Jan 2010   |  |
| 3.0   | Review                                  | 1 Oct 2012 | Reviewed, changes to job roles/titles and section added regarding Being Open   |
| 3.1   | Review                                  | 3 Dec 2012 | Addition to 5.6 'The NHSR may, in some cases notify the Trust of learning points via the Solicitors Risk Management Report on Claims. Action plans from these reports will be discussed at Closing the Loop Group to ensure all necessary actions have |

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|     |                       |           | <i>been taken. If actions have not been taken the reasons why and how this decision was made will be clearly documented. Change of wording to Section 10 monitoring.</i>  |
| 4.0 | Review                | Sept 2017 | <i>Replace NHSLA with NHR throughout.<br/>Replace Clinical Risk Management Group with Clinical Risk Management Group throughout.<br/>Addition of lessons learnt.<br/>Removal of references to the complaints, Litigation, Incident and PALS group.<br/>Addition of duty of candour and disclosure requirements.</i> |
| 5.0 | Review                | Jan 2021  | <i>Updating Trust name<br/>Updating job titles<br/>Addition of reporting on the reportable log<br/>Addition of the Legal Services Officer role and the creation of the legal services team.</i>   |
| 5.1 | Review – Minor Amends | Feb 2023  | <i>Updating roles within the legal services team.<br/>Updating Duty of Candour information<br/>Addition of the address for service.<br/>Approved at IG Group (9 Feb 2023).</i>  |
|     |                       |           |   |