

Claims Management Policy

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Claims Management Policy

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Claims Management Policy

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Claims Management Policy

Policy Statement

Background

In April 2002, NHS Resolution (NHSR) was established to manage the financial and case management responsibilities on behalf of their member Trusts for all clinical negligence claims. Claims for personal injuries (not as a result of treatment) from employees, patients and members of the public, and property damage, are also managed by the NHSR under their Liabilities to Third Parties Scheme and the Property Expenses Scheme respectively. Both of these schemes are incorporated into the Risk Pooling Scheme for Organisations (RPST). Since its formation in April 2011 LCHS have been a member of the CNST, LTPS and PES NHSR schemes.

Statement

The main objectives of this policy are to:

- Describe the arrangements by which Lincolnshire Community Health Services (LCHS) NHS Trust manage clinical claims, non clinical claims and claims for losses or compensation, made against the Trust.
- Provide guidance on the actions staff should take upon the receipt or notification of a potential or formal claim against the Organisation.

Lincolnshire Community Health Services NHS Trust (LCHS) is committed to the effective and timely investigation and response to those claims made against it as an organisation and to support staff involved.

Responsibilities

Although the NHSR handle claims on behalf of LCHS, the Trust retains ultimate responsibility for all claims lodged against the organisation, and as such, remains the 'defendant' in any claim. LCHS has the responsibility for claims handling pertaining directly to staff and services provided by LCHS and all members of staff have a duty to co-operate fully with interested parties in accordance with the Civil Procedure Rules (CPR).

All staff members must report all untoward incidents through the organisation's incident reporting procedure, as they may result in a claim against the Organisation. The Organisation will ensure that all appropriate staff are informed of any clinical negligence and personal injury claims. The views and opinions of staff will be sought throughout the claims process, with staff members being offered support as appropriate.

Training

LCHS employed staff are provided with an awareness of claims as part of the risk management training session included within the Organisation Induction Programme and as part of the annual mandatory training update.

Dissemination

All staff will be made aware of this policy and its contents through Induction and Mandatory Update training. In addition line managers have a responsibility to ensure that all members of staff are aware of the contents and implement the policy accordingly.

Resource Implication

The National Health Service Litigation Authority has responsibility for the financial management of all clinical negligence claims and all claims that come under the Liability to Third Party Schemes (LTPS).

1. Introduction

- 1.1 LCHS Trust has a responsibility to investigate and respond to all claims lodged against the organisation, and as such remains the 'defendant' in any claim.
- 1.2 The Clinical Negligence Scheme for Trusts (CNST) defines a claim as:

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

This policy sets out the organisation's commitment to provide an effective and timely investigation and response to any claim made against LCHS and to ensure that all staff involved in a claim are supported and provided with the appropriate advice and guidance.

This policy does not apply to independent practitioners whose claims should be dealt with by their own liability cover and medical insurance. Any independent practitioner who receives a letter of claim or request for disclosure of records should seek advice immediately from their medical defence union.

- 1.3 Claims covered by this policy are dealt with under the following schemes:

- **Clinical negligence claims-** covered by NHS Resolution (NHSR) Clinical Negligence Scheme for Trusts (CNST).
- **Non-clinical claims-** this includes claims which fall under 'employers' liability', 'public liability', 'products liability', and 'professional liability' and is covered by the NHSR Risk Pooling Scheme for Organisations (RPST) Liability to Third Parties Scheme (LTPS).
- **Claims for damage to property** – covered by the NHSR Property Expenses Scheme.
- **Claims for losses and compensation** – dealt with in-house covering the loss or damage to property and relating to a patient or member of the public.

2. Definitions

For the purpose of this policy, the following definitions will be applied:

Civil Law

Concerned with disputes between citizens, sub divided into four main categories; Contract, Tort, Trusts and Family Law. It is the Tort of Negligence Law that covers professional liability and clinical negligence.

Civil Procedure Rules

Following on from a review by Lord Woolf, the Civil Procedure Rules were introduced in 1998 aimed at reducing the cost, complexity and length of litigation claims.

Claimant (or Plaintiff)

A person (patient or their representative, member of the public, or employee) who asserts a right or demand for money, or who enters legal proceedings against the organisation.

Claim

An action taken against the organisation to assert a right or demand for money as a result of an alleged breach or failure by the organisation.

Clinical Negligence Scheme for Trusts (CNST)

A scheme, operated by the NHSR which assumes liabilities for the appointment of solicitors and the settlement of all claims made against the organisation. LCHS are a member of the scheme and are required to pay an annual contribution, the amount of which is determined by the organisations claims history, risk management profile and ongoing claims.

Criminal Law

Concerned with offences against the State and with obligations imposed on citizens by the Law. In rare case there have been circumstances where conduct of clinicians, amounting to criminal recklessness, has been deemed as a criminal offence under Gross Negligence Manslaughter.

Liabilities to Third Parties Scheme (LTPS)

As above, a scheme operated by the NHSR which assumes liability for the appointment of solicitors and the settlement of all claims which are made against the Organisation. Unlike the CNST scheme, in addition to annual contribution, an excess ranging between £3,000 to £10,000 is also payable for each claim which is settled on behalf of the Trust.

Litigant in Person

A person who is not represented by a solicitor or barrister and who wishes to make a claim.

Tort of Negligence

A branch of Civil Law which affects professional liability and clinical negligence. This is the area of law under which the majority of clinical negligence and third party liability claims will fall. The tort of negligence contains four principle elements, namely; the Duty of Care, Breach of that Duty, Damage caused as a result of the breach and Damage not too remote. A claimant must prove each of these four elements in order to win a case and be awarded compensation.

3. National Health Service Litigation Authority (NHSR)

The principal task of the NHSR is to administer schemes set up under Section 21 of the National Health Service and Community Care Act 1990. This enables the Secretary of State to set up one or more schemes to help NHS bodies pool the costs of any clinical negligence, loss of or damage to property, and liabilities to third parties for loss, damage or injury arising out from the carrying out of 'their functions'. The NHSR operate these schemes on a 'risk pooling' basis, where Trusts pay an annual contribution to the NHSR and in return have the services of the NHSR to manage claims on their behalf. In the case of CNST claims, the NHSR are responsible for the payment of any costs or damages made in the settlement of

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the claim. In regard to LTPS and PES schemes, the Trust is responsible for the payment of any excess, and the NHR pay all costs over this amount. Limits to coverage may apply depending upon the nature of the claim and are detail in the Confirmation of Scheme Cover Certificate provided by the NHR on an annual basis.

LCHS are currently members of both the Clinical Negligence Scheme for Trusts (CNST), the Liabilities to Third Parties Scheme (LTPS) and the Property Expenses Scheme (PES). Each year a contribution is made to the NHR in return for membership of these schemes.

4. Roles and Responsibilities

4.1 Chief Executive

The Chief Executive (CE) has overall responsibility and accountability for the management of all claims.

The CE will ensure that claims are appropriately handled and that the risk management process takes proper account of the lessons to be learned from claims.

4.2 Director of Finance

The Director of Finance will oversee the monitoring and authorisation of payments in respect of the settlement of claims excesses and payment of the NHR contributions.

4.3 Trust Board Secretary

The Trust Board Secretary is responsible for ensuring the management, co-ordination and handling of LCHS claims. Day to day management of these claims is further delegated to the Corporate Assurance Manager.

The Trust Board Secretary will:

- Ensure that the Director of Finance receives appropriate information in respect of all claims.
- Ensure appropriate liaison with third parties such as the NHR, solicitors and claimants.
- Ensure that an appropriate investigation is carried out for all claims received and that all required actions are taken in order to comply with the pre-action protocols and NHR procedures for claims management.
- Provides a claims report to the Executive Leadership Team (ELT) and Quality and Risk Committee on a quarterly basis and to the Audit Committee bi-annually.
- Ensure that all relevant documents are disclosed and sign "Disclosure Statements" setting out the extent of the search that has been undertaken and certifying that the obligation to provide disclosure is understood by the signatory and that the signatory has carried out that duty to the best of their ability.
- Maintain an accurate record of all claims being dealt with by the NHR on behalf of the Trust.

4.4 Corporate Assurance Manager

The Corporate Assurance Manager acts as the claims handler and will carry out the day to day management of all claims made against LCHS. This will include:

- Receipt and acknowledgement of all claims.
- Ensure disclosure of records requests are dealt with.
- Report claims, as appropriate, in accordance with the NHR reporting guidelines.
- Ensuring that an investigation is carried out by the appropriate Business Unit into the claim and collate all necessary evidence to support the investigation.
- Liaise with the NHR, claimants and panel solicitors on claims, ensuring that all requests for information are dealt with, in accordance with mandatory timelines.
- Maintain the claims database on Datix and extract reports as required.
- Prepare documentation for Court proceedings as directed by the NHR and Defence Counsel.
- Ensure that appropriate support, advice and guidance is provided to all staff who are involved in the claims procedure.
- Being the central point of contact within the Trust for all claims related issues.

4.5 Head of Clinical Services / Matrons

Head of Clinical services and Matrons will be informed by the Corporate Assurance Manager of all claims which are received relating to the individual services. They will direct all requests for investigations to the appropriate Clinical Lead/ Manager and provide support and advice to ensure that the investigation into the circumstances surrounding the claim is completed including the collection of evidence held locally and the provision of staff statements.

4.6 Clinical Leads/Managers

Clinical Leads/Managers may be requested to carry out investigations in accordance with strict guidelines into the circumstances surrounding claims. Support and advice will be provided by the Corporate Assurance Team as appropriate.

4.7 All Staff

All staff members employed by LCHS must report all untoward incidents as they may result in a claim against the organisation. Should a claim be made, the organisation will liaise with relevant staff members in the collection of statements and other information, as required. Staff will be offered support and advice throughout the process and will be kept updated on progress as appropriate.

5. Claims Management Process

In the majority of cases clinical and non-clinical negligence claims will be dealt with under Civil Law rather than under Criminal law. There may be rare occasions where a case is brought under Criminal Law, if the conduct of the clinician is thought to amount to criminal recklessness (Gross Negligence Manslaughter) or the organisation is alleged to be guilty of Corporate Manslaughter. Claims brought under Civil Law, usually fall under the 'tort of negligence' sub-group, which is the area of law which affects professional liability and clinical negligence.

Under the Limitation Act 1980, Section 11, the length of time a claimant has to make a claim (known as the period of limitation), under the tort of negligence, is 3 years from the date at

which the incident occurred, or date from which the injured person had knowledge of the negligence, which ever is later. There are two exceptions to this period of limitation; one for children who have three years from the date they reach their 18th birthday and for those who are defined as a patient under the Mental Health Act 1983, for whom special rules apply.

Where the injured party is deceased, the limitation period would be calculated as three years from the date of death.

The legal basis of any claim made against a clinician or hospital for damages, is likely to be the Law of Negligence. This is founded on the principle that we are bound to exercise a duty of care towards anyone we may reasonably foresee as being injured by our actions. (*Hill Dickinson, Claims Handler Manual, 2012*). Any damages awarded as a result of a claim are intended to compensate the injured person to place them in a position they would have been in if the negligence had not occurred.

The process which will be followed by LCHS in the management of claims is in line with the Civil Procedure Rules and in accordance with the NHR reporting guidelines. The process will differ slightly depending upon the type of claim being made, as detailed below. A flowchart showing the autonomy of a typical claim is detailed at Annex A.

5.1 Clinical Negligence Claims (CNST)

5.1.1 Pre-Action Claims

A pre-action claim, often known as a 'letter before action', notifies the Trust of a potential legal claim. This may be received from either a Solicitor acting on behalf of a claimant, or directly from the claimant themselves otherwise referred to as a 'litigant in person'.

The letter may well be the first indication that some wrong doing or potential negligent treatment may have occurred and may request copies of medical records. These records will allow the claimant, or the claimant's representative, to investigate the circumstances of the potential claim and may allow for an early resolution.

All pre-action letters must be forwarded to the Corporate Assurance Manager **immediately** upon receipt. The Corporate Assurance Manager will acknowledge receipt of the letter and send a copy to Subject Access Request Team, who will deal with requests for medical records, if required. Records must be provided within one calendar month of receipt of the letter.

At this stage of the process the exact details of the allegations are likely to be unclear. However, the brief information provided in the pre-action letter should enable a preliminary investigation to be carried out by the Trust. The Corporate Assurance Manager will notify the relevant services of the pre-action.

All investigation findings should be reported using the standard templates for claims. Investigation reports should address all the allegations stated within the solicitor's letter and comment on fact rather than supposition. Signed statements should be taken from all appropriate staff and forwarded to the Corporate Assurance Manager along with the investigation report. Upon completion the report will be reviewed in order to identify any clear wrong-doing or potential risks to the organisation.

If we are able to identify any clear wrong-doing or any aspect of care which has fallen below an acceptable standard, it may be in the best interests of the Trust to acknowledge this and negotiate an early settlement. In order for this to happen all

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investigations carried out by the Trust must be open, honest and stating the facts in a clear and concise manner.

Should this situation occur, the Corporate Assurance Manager will inform the NHSR who will assess the pre-action information and preliminary investigation and, if appropriate, deal with the claim on behalf of LCHS.

Action plans must be completed by services if any risks are identified during the investigation process and copied to the Corporate Assurance Manager for inclusion in the claims file. Service Scrutiny Groups will oversee the implementation of these actions and provide an updated action plan to the Corporate Assurance Manager once these are completed.

All lessons identified from this process must be disseminated across the organisation via the Quality Scrutiny Group lessons learned process.

5.1.2 Letter of Claim

Under the pre-action protocol, Claimants (either as a litigant in person or through a solicitor) are required to send a comprehensive letter of claim setting out the full details of the exact allegations. The protocol requires the letter of claim to be acknowledged within **14 days** of receipt and a full letter of response to be sent to the claimant within four months.

On receipt of the letter of claim, the Corporate Assurance Manager will acknowledge the letter and notify the NHSR immediately. The claim should be reported to the NHSR within 24 hours of receipt via the NHSR Claims Reporting System (CRS) Wizard. This can be accessed through the NHSR Extranet page.

If it was not possible to complete a full investigation prior to receipt of the letter of claim, this must be done immediately along with an action plan, if appropriate, and forwarded onto the NHSR as soon as it is completed.

Under the pre-action protocol, Claimants should not issue proceedings until 4 months from the date of the letter of claim, unless there is a limitation issue and / or the patient's position needs to be protected by early issue.

The letter of claim should contain a clear summary of the facts on which the claim is based, including the alleged adverse outcome and the main allegations of negligence. It should describe the patient's injuries, the present condition and prognosis, and the estimated financial loss incurred by claimants. Sufficient information should be given to enable the organisation to commence investigations if it has not already done so, and for the NHSR to put an initial valuation on the claim.

Claims can be made either solely against the Trust, or against multiple defendants in cases where joint liability is identified. The proportion of liability will be agreed between the Trusts identified in the litigation and the defendant's indemnifiers, which in the case of LCHS would be the NHSR. Should any costs and damages be awarded, these would be split according to the agreed proportion of liability.

The NHSR will deal with the claim or instruct a firm of panel solicitors to manage the claim on their behalf and provide the claimant with a letter of response. The Corporate Assurance Manager will act as the intermediary for LCHS and will liaise with the NHSR and panel solicitors in order to assist them in obtaining staff statements and collection of further evidence. The Corporate Assurance Manager will

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monitor progress on any claim and report back to the Trust as appropriate.

Under our membership of the NHR CNST scheme, all costs and damages agreed in settlement of CNST claims, will be paid directly by the NHR.

5.2 Non-Clinical Negligence Claims (LTPS and PES)

Should the Trust be notified of a claim which falls under the Liabilities to Third Parties Scheme, the Corporate Assurance Manager must acknowledge the claimant's letter within 14 days of receipt and report it to the NHR via the Claims Reporting System (CRS) Wizard within 24 hours.

It is now possible for claimant's solicitors to register third party claims directly with the NHR through the Public Liability Portal. Should this occur, the NHR will notify the Trust immediately that a claim has been received, provide a copy of the claim submission and a request for any further information they may require.

The Corporate Assurance Manager will ensure that a preliminary investigation is carried out by the relevant service and that this, along with other relevant supporting documentation, such as statements, incident report forms etc, is forwarded to the NHR in a timely way.

As with claims under CNST, the NHR will take over the active management of the claim or instruct a firm of panel solicitors to manage the claim on their behalf. They will be required to provide the claimant with a letter of response within 4 months of receipt of the claim or, if the claim has been received via the Public Liability Portal, provide a liability decision response within 30 days.

The claim will be monitored by the Corporate Assurance Manager, who will assist the NHR and the panel solicitors in gathering appropriate evidence and statements.

Should payment of costs and damages be agreed, the Trust have responsibility for the direct payment of damages and costs up to the agreed excess. Once payments exceed the excess amount, the NHR will pay future costs directly. Should the initial payment required by the Trust be more than the agreed excess, the Trust will pay the full amount after which the NHR will refund any overpayment.

5.3 Claims for Losses and Compensation

In addition to clinical and non-clinical claims, the Trust also deals with claims for losses and compensation. This type of claim typically deals with items such as losses or damage incurred to a patient's possessions or property whilst they are in the Trust's care. However, unlike clinical and non-clinical claims the Trust deals with claims for losses and compensation 'in-house' rather than through the NHR.

Should a patient, carer or other member of the public wish to make a claim of this nature, they will need to complete an LCHS 'Application for Compensation/Reimbursement' form (Appendix B), providing details of the alleged loss/damage. Once a completed form has been received, a request will be made to the relevant service for an investigation to be carried out into the circumstances of the loss/damage. The relevant Head of Clinical Service/Matron will be required to agree whether payment for compensation/reimbursement is approved. Any approved payments made under this scheme will come directly out of the appropriate service budget.

The Corporate Assurance Manager will contact the claimant and keep them informed of any decisions made in respect of their claim and make arrangements for any payments to be

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made.

5.4 Potential Future Claims

From time to time, staff may become aware of incidents or circumstances which may result in future claims being made against the Trust. This information may come from a variety of sources, for example; complaints, incident report forms, identified risks, notification of deaths, Police investigations, serious untoward incidents or from conversations with patients to name a few.

Should any member of staff become aware of any situation which may result in future litigation against the Trust, notification should be made to the Corporate Assurance Manager as soon as possible. Following notification the circumstances surrounding these concerns will be assessed and appropriate action taken.

6.0 Legal Proceedings

Should negotiations under the pre-action protocol not lead to a satisfactory resolution for both parties, the claimant's solicitor must decide whether or not to proceed with the case and issue legal proceedings. At this point the NHSR, or a firm of panel solicitors, will be acting on behalf of the Trust and will deal with our defence in these proceedings.

In the first instance the claimant will issue a claim form. A particulars of claim form will also be served either accompanying the claim form or within 14 days of the claim form being issued. Should any of these documents be received at the Trust, they MUST be forwarded to the NHSR, or panel solicitors dealing with the claim, immediately.

Within 14 days of formal service of the particulars of claim, the NHSR will be required to file a defence or an acknowledgement of service on behalf of the Trust, who are the defendant. If an acknowledgement of service is filed, the defence response becomes due 28 days after the service of the particulars of claim.

The NHSR, or panel solicitors, will continue to deal with the claim on behalf of LCHS as it progresses through the legal process until either an out of Court settlement is agreed, or the case goes to trial.

The Corporate Assurance Manager will liaise with the NHSR on the progress of the case and assist in the provision of witness statements and other evidence as required.

At any point during the pre-action/legal proceeding stages, a 'Part 36 Offer' (an offer of payment made in settlement of the claim) may be made or received by either party. All offers must be forwarded to the NHSR for consideration as such an offer has an effect on the value of the claim and must be considered carefully.

7. Requests for Disclosure of Records

As detailed in Section 5.1.1, the first indication that a claim against the organisation is being contemplated is often a letter from the patient or their solicitors requesting access to their records. All requests for access to medical records are dealt with by the Trust Subject Access Request (SARs) Team. As soon as a request for records is received this should be forwarded on to the SARs Team immediately. In addition to providing a copy of the medical records to the claimant, a copy should also be forwarded to the Corporate Assurance Manager for inclusion in the claim file.

The relevant law, as it relates to England and Wales, is primarily contained in the Access to Medical Records Act 1988, The Access to Health Records Act 1990, the UK Data Protection Legislation and regulations made under the provisions of this Act.

Under the Data Protection Act, any patient making a written request for disclosure of their medical records is entitled to receive a copy of those records subject to certain exemptions. Requests for access to a deceased's records are made under the Health Records Act 1990. Under this Act, a patient's personal representative and any person who may have a claim arising out of the patient's death, has a right of access, again subject to certain exemptions.

Records should be disclosed within 21 days if requested under the Access to Health Records Act 1990 (for deceased patients), or within 40 days if part or all of the record has been added to in the 40 days preceding the request. If the records are requested under the Data Protection Act 1998 (which applies to living patients), they should be disclosed within 40 days.

8. Support for Staff

LCCHS recognises the importance and value of supporting staff throughout the process of a claim. There are a variety of ways in which any member of staff can receive support both during and after their involvement in the claims process:

- The Corporate Assurance Manager will keep staff informed of the progress of the claim, and offer support and guidance throughout the process.
- Matrons and Clinical Leads will be made aware of claims within their service areas and will offer day-to-day support.
- Staff are encouraged to contact their professional representative as early as possible in the claims process.
- The Practitioner Performance Manager will be able to offer support and guidance on request.
- Occupational Health services can be offered to staff if required.
- A counseling service is available.

The support for staff does not end at the cessation of the claim: the Corporate Assurance Manager will liaise with Matrons and Clinical Leads to assess the continued support required. An action plan will then be developed to include ongoing support mechanisms for staff involved.

9. Training

LCCHS employed staff will be provided with awareness of the claims process as part of the risk management training session included within the organisations Induction Programme. This training will be supplemented for both clinical and non-clinical staff with inclusion of a claims management update within the risk management training session delivered as part of the annual mandatory training update.

10. Lessons Learned

As soon as an investigation has been completed services will ensure that an action plan is developed covering any issues which have been highlighted by the claim. This plan must clearly address issues with realistic timescales, and indicate who is responsible for its achievement and subsequent follow up.

Once the claim has been finalised and prior to the file being closed, the action plan should be reviewed and updated to take into consideration any new issues which emerged during the claim process.

All lessons learnt will be fed into the Quality Scrutiny Group as part of the lessons learned process to ensure that all issues are shared across the organisation and also form part of the analysis of aggregated data from incidents, complaints and claims. The Quality and Risk Committee will monitor all action plans and reports and endorse decisions to share the lessons learnt with relevant stakeholders to promote patient safety and quality.

11. Claims Data

Information on claims is recorded on the Trust's Datix system. This information will be updated and maintained by the Corporate Assurance Team and include information of the nature and progress of each claim, financial data, documentation, and action plans.

Regular reports are provided to the Executive Leadership Team, Quality and Risk Committee and the Audit Committee on the Trusts claims profile. A variety of other reports can be extracted from the system in a number of formats, depending upon the nature of the request. This information should only be produced by the Corporate Assurance Team and should be anonymised.

Updated claims information can be extracted as required from the NHRX Extranet.

12. Liaison with External Agencies / stakeholders

Regular liaison with external agencies, and other relevant stakeholders will be vital during the course of the claims process. Information should be provided in a timely manner and in accordance with relevant timescales. This will include regular updates being given to staff, claimants (and/or their legal representatives), NHRX, panel solicitors, HM Coroner etc. as required to ensure that the claims process is progressed as effectively and efficiently as possible. All communications should go through the Corporate Assurance Manager who will oversee the claims process on behalf of the Trust. External Agencies could include, for example:-

- Other Department of Health organisations
- Health and Safety Executive
- HM Coroner
- Police
- Lincolnshire County Council
- Health or Social care organisations across boundaries.
- Safeguarding
- Professional Regulatory Body

13. Monitoring and Evaluation

All claims or potential claims are reported immediately to the Corporate Assurance Manager, the relevant General Manager and the Trust Board Secretary. They are evaluated and monitored on a day to day basis by the Corporate Assurance Manager.

Minimum requirement to be monitored	Process for monitoring e.g. audit	Responsible individuals/ group/ committee	Frequency of monitoring/audit	Responsible individuals/ group/ committee (multidisciplinary) for review of results	Responsible individuals/ group/ committee for development of action plan	Responsible individuals/ group/ committee for monitoring of action plan
Lessons Learned from Action Plans	Action Plans/Datix Report/ Summary of Claims Report	Service Scrutiny Groups / Corporate Assurance Manager	Monthly	Quality Scrutiny Group	Quality Scrutiny Group	Quality and Risk Committee
Claims Summary	Datix Report		Quarterly	Quality and Risk Committee	Clinical Governance Groups	Quality and Risk Committee
Claims Summary	Datix Report	Corporate Assurance Manager	Quarterly	Executive Leadership Team	Executive Leadership Team	Trust Board
Claims Summary	Datix Report	Corporate Assurance Manager	Bi-Annually	Audit Committee	Audit Committee	Trust Board
Annual Claims Summary	Datix Report/ NHSR Claims Profile	Corporate Assurance Manager	Annually	Quality and Risk Committee and Audit Committee	Quality and Risk Committee and Audit Committee	Quality and Risk Committee and Audit Committee

14. Inquests

The coroner has a duty to hold an inquest where there is reasonable cause to suspect that the deceased died a violent or unnatural death, or suffered a sudden death (the cause of which is unknown) or died in legal detention (such as prison or in police custody). The Coroner's duty is to establish, if possible, the identity of the deceased, when and where he / she died, how the deceased met his or her death and in what circumstances.

When the Coroner decides to hold an inquest, all staff involved in the patient's care and treatment must write a statement as soon as possible following the death, detailing the facts of their involvement with the patient, including their role and qualifications.

In practice, the Coroner's Officer will usually inform the Trust when he/she is aware that the deceased's family have concerns, and whether the family will be legally represented at the inquest. In many cases, staff are already aware of family concerns while the patient is still in the Trust's care.

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It is important that managers inform the Practitioner Performance Manager, Trust Board Secretary and Corporate Assurance Manager of any death where the family has raised concerns about the patient's care and treatment, and where there is likely to be criticism of the organisation.

In certain circumstances, i.e. if a death may result in a clinical negligence claim being brought against the Trust, the NHSR may provide funded legal representation at inquests on the Trusts behalf. Requests for this assistance should be made via the Corporate Assurance Team to the NHSR using the Claim Reporting System. Should funded legal assistance not be provided by the NHSR, the Practitioner Performance Manager will arrange legal representation for the Trust and provide pre-inquest preparation for staff if required.

15. Archiving Process

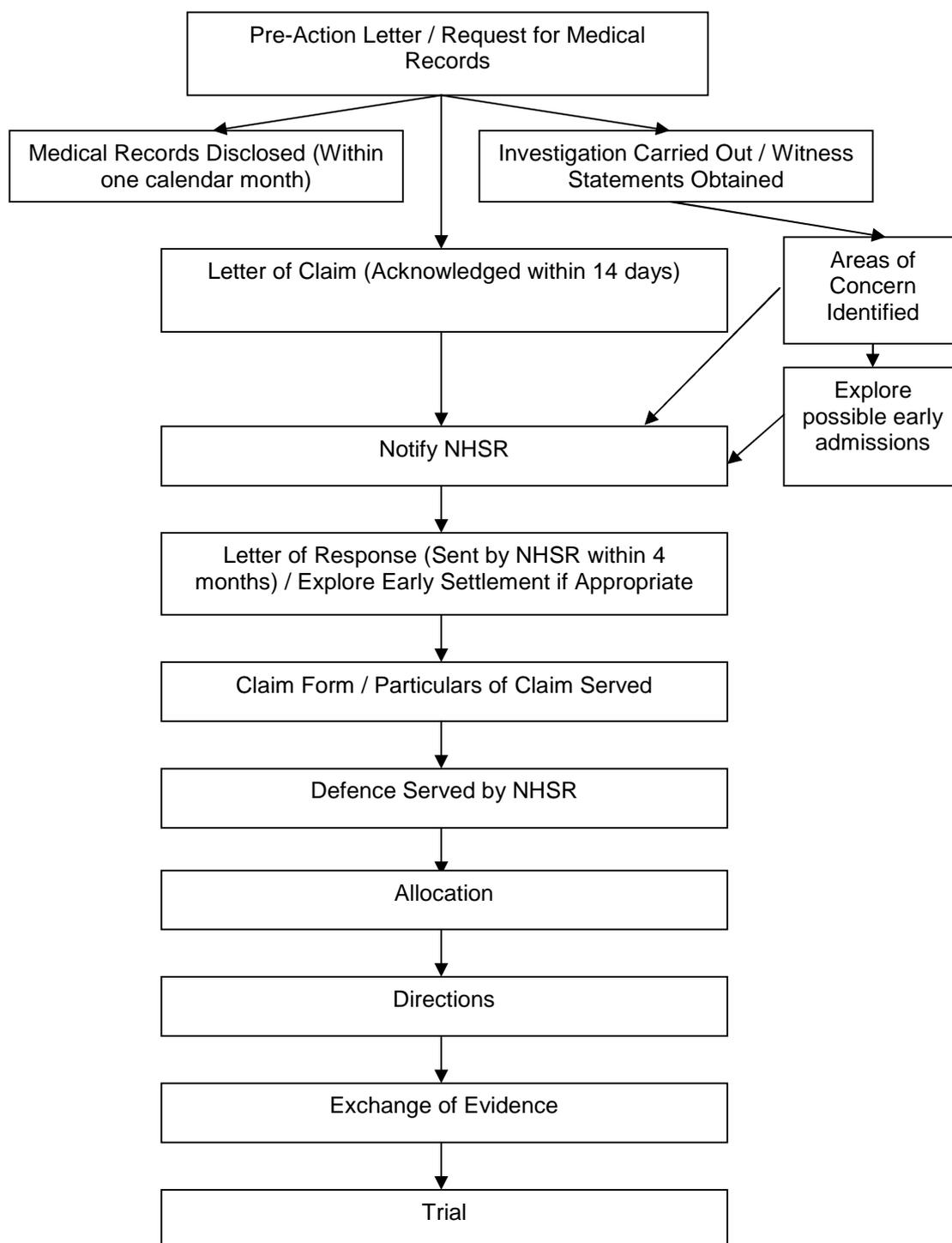
In addition to electronic files, copies of paper files are also held at Trust Headquarters. These should be reviewed on a regular basis and archived as appropriate. All archiving should be carried out in accordance with Trust procedures, with details of the archiving date and reference number recorded on the individual electronic claims record. A list of all claims files being archived should also be maintained, with details of all review and destruction dates.

16. Related Policies

This Policy should be read in conjunction with the following Policies and Procedures:

- P_RM_01 - Incident Reporting Policy
- P_RM_02 - Risk Management Strategy
- P_RM_05 - Procedure for the Investigation of Incidents, Complaints and Claims
- P_CIG_08 – Complaints Policy
- Guidance for Access to Health Records Requests (DH, Feb 2010)
- Access to Health Records Act 1990
- UK Data Protection Legislation
- Limitation Act 1980
- Freedom of Information Act 2000
- Supreme Court Act 1981 (Section 33)
- Clinical Negligence Reporting Guidelines (NHSR, 5th Edition)
- The Liabilities to Third Parties Scheme Reporting Guidelines (NHSR, Oct 2012)

Flowchart of a Typical Clinical Negligence Claim



Claims may be withdraw or settled throughout the claims process. Depending upon the stage of the process reached, costs may need to be paid by either party and are normally subject to negotiation.

Chair: Elaine Baylis QPM
Chief Executive: Andrew Morgan

Appendix B

APPLICATION FOR COMPENSATION / REIMBURSEMENT

Please read the information below to ensure you provide the correct details to allow us to process your claim:

As NHS organisations do not hold private insurance policies for loss/damage to patients' property, we are required to justify and quantify any payments as reimbursement is made from public monies.

In order to proceed with your claim, please complete all of the requested details and provide details of proof of payment or a quotation for replacement. Please also provide details of the age of the item(s) as specified. If it is established that the Trust is partly/fully liable for any loss, the value of the item(s) is calculated not at replacement as new but at value at the time of the loss, taking age and depreciation into account i.e. second hand replacement cost.

In cases where the Trust is found partly/fully liable for part or whole of the loss/damage, we shall do one of the following:-

- Reimburse where proof of payment is provided or;
- Arrange direct payment of an invoice.

If you are claiming on behalf of a deceased patient, you are required to provide a Grant of Representation (Probate), as the claim cannot proceed without this. Where the Trust is found partially or fully liable for any loss/damage, any monies will be paid directly into the deceased's estate.

Whilst the Trust endeavors to look after patients' property (where staff are advised of it's existence), this is sometimes not possible; this is particularly so in an emergency or life threatening situation at which time the patient's clinical needs are a priority. The circumstances of the loss will be taken into account when considering the case for payment/reimbursement.

Name of claimant :			
Date of birth:			
Address:			
Telephone:			
Place of Incident :	Date of loss :	Time of loss :	
State to whom the incident of loss/damage was reported :			

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Please detail below the circumstances of the incident, the loss/damage that occurred and indicate why you believe the Trust has been negligent and is therefore liable for the loss/damage:

.....

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Please complete the section below in respect of damaged, stolen, destroyed or lost property:

Provide full details of each item claimed for. For watches give make, model, nature and quality of metal from which the case was made, and type of strap etc. For jewellery give nature and quality of the metal content, size and type of stones etc.

Description of item	Owner	Place of purchase	Date acquired	Purchase method	Purchase cost	Replacement cost

Purchase receipts and valuations must be provided.

For damage claims only – please provide an estimate for repair or if the item is damaged beyond repair, provide written confirmation of this from a relevant tradesman. Please retain all damaged items as we may require them to be forwarded to the department for inspection.

Signed by the Claimant (**owner of the property lost/damaged**) as an accurate record:

..... Date :

NB: the claimant must sign this form. A copy of the Power of Attorney or Grant of Representation must be provided in the absence of the claimant’s signature.

Should the form be incomplete, the claimant may be contacted for further details or the form returned for completion.

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Equality analysis

Name of Policy/Procedure/Function*

P_CIG_02 – Claims Management Policy

Equality Analysis Carried out by:

Karen Stinson

Equality & Human rights Lead:

Rachel Higgins

Director\General Manager:

Andrew Morgan

***In this template the term policy\service is used as shorthand for what needs to be analysed. Policy\Service needs to be understood broadly to embrace the full range of policies, practices, activities and decisions: essentially everything we do, whether it is formally written down or whether it is informal custom and practice. This includes existing policies and any new policies under development.**

Section 1 – to be completed for all policies

A.	Briefly give an outline of the key objectives of the policy; what it's intended outcome is and who the intended beneficiaries are expected to be	To outline the arrangements to be followed by Lincolnshire Community Health Services Trust in the management of claims, thereby ensuring that all claims are dealt with effectively, timely and in accordance with legal and organisational requirements.		
B.	Does the policy have an impact on patients, carers or staff, or the wider community that we have links with? Please give details	Yes, the policy impacts on all patients, carers and staff should they be involved in the claims process.		
C.	Is there is any evidence that the policy\service relates to an area with known inequalities? Please give details	No		
D.	Will/Does the implementation of the policy\service result in different impacts for protected characteristics?			
		Yes	No	
	Disability		X	
	Sexual Orientation		X	
	Sex		X	
	Gender Reassignment		X	
	Race		X	
	Marriage/Civil Partnership		X	
	Maternity/Pregnancy		X	
	Age		X	
	Religion or Belief		X	
	Carers		X	
If you have answered 'Yes' to any of the questions then you are required to carry out a full Equality Analysis which should be approved by the Equality and Human Rights Lead – please go to section 2				
The above named policy has been considered and does not require a full equality analysis				
Equality Analysis Carried out by:		Karen Stinson		
Date:		9 th January 2017		