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BEHAVIOURAL STANDARDS FRAMEWORK

To help create a great place to work and a great place to be cared for, it is essential that our Trust policies, procedures and processes support our values and behaviours. This document, when used effectively, can help promote a workplace culture that values the contribution of everyone, shows support for staff as well as patients, recognises and celebrates the diversity of our staff, shows respect for everyone and ensures all our actions contribute to safe care and a safe working environment - all of which are principles of our Behavioural Standards Framework.

Behavioural Standards Framework – Expectations ‘at a glance’

Introduce yourself with #hello my name is... 	Value the contribution of everyone	Share learning with others
Be friendly and welcoming	Team working across all areas	Recognise diversity and celebrate this
Respect shown to everyone	Seek out and act on feedback	Ensure all our actions contribute to safe care and a safe working environment
Put patients at the centre of all we do	Be open and honest	For those who supervise / manage teams: ensure consistency and fairness in your approach
Show support to both staff and patients	Communicate effectively: listen to others and seek clarity when needed	Be proud of the role you do and how this contributes to patient care

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1. SUMMARY

This document sets out the arrangements for managing claims against the Trust and ensuring that any lessons learned as a result of claims are reported and acted upon.

2. PURPOSE

This procedure describes the arrangements for handling claims in an appropriate and efficient manner, thereby addressing healthcare governance issues and minimising the cost to the Trust. It will ensure best professional practice at local level.

Implementation of the procedure will lead to:

- A standardised methodology for handling claims in line with NHS Resolution (NHSR) requirements
- A standardised approach to dissemination of information
- A process for learning lessons from claims
- A process for monitoring the procedure and its effectiveness
- Reduction in incidence and adverse impact of claims
- The adoption of clear risk management strategies
- A robust claims procedure

3. SCOPE

This procedure applies to all Trust staff.

4. PROCEDURE

4.1 Introduction

The procedure describes arrangements for the following types of claims: clinical negligence, employer's liability, public liability and property damage.

4.2 Duties

4.2.1 Trust Board

The Trust Board will:

- Receive and discuss reports on all aspects of Governance, Risk Management and Internal Control.
- Receive and discuss the formally recorded minutes of the Governance committees.

4.2.2 Quality Committee

The Quality Committee has overarching responsibility for monitoring the claims processes and for ensuring lessons are learned from claims.

Key to this responsibility is the receipt quarterly of the claims report which provides an overview of important issues from claims, together with actions completed and future actions and priorities.

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4.2.3 Chief Executive

The Chief Executive has ultimate responsibility for ensuring all claims are dealt with effectively and appropriately.

4.2.4 Director of Governance

The Director of Governance is the nominated Director responsible for ensuring compliance with the procedure. S/he has line management responsibility for the Legal Services department and oversees the delivery of an effective clinical negligence and employer's liability claims management service.

4.2.5 Finance Director

The Finance Director is the nominated Director with line management responsibility for the Assistant Financial Accountant in the delivery of an effective Public Liability and Property Expense Scheme claims management service.

4.2.6 Care Group Governance and Assurance Groups

Are responsible for:

- ensuring that staff respond to requests for information in a timely manner.
- reviewing claims following investigation and ensuring action plans are completed.

4.2.7 Head of Legal Services and Legal Services staff

Are responsible for:

- Management of the clinical negligence claims and employer's liability claims processes.
- Reporting relevant issues to the Quality Committee.
- Ensuring all relevant information is provided to NHSR, Trust solicitors and other relevant stakeholders.
- Informing the Director of Governance of any risk issues identified during the course of a claim, and bringing risk management issues arising from the investigation of clinical and employer's liability claims to the attention of the appropriate Care Group.
- Undergoing recognised claims handling training and maintaining their knowledge base via attendance at appropriate training events.
- Maintenance of a database of claims on the Ulysses Risk Management System, recording information about the nature of each claim, financial data and activity throughout the duration of the claim. This will enable the provision of relevant and timely information as required by the Board, NHSR and any other authorised body.
- Acting as contacts with the Trust's legal advisers for clinical and employer's liability claims. Legal assistance relating to such claims sought by any department can be obtained during office hours.
- Ensuring there is an offer and provision of support to staff where required.
- Sharing the final outcome of clinical and employer's liability claims with relevant staff.
- Sharing the findings and actions agreed with the Care Group management teams.
- Providing Library and Knowledge Services with lessons learned and improvements made from claims in order to publicise the learning.
- Providing information for the quarterly claims report.

4.2.8 Assistant Financial Accountant

Is responsible for:

- Management of the property expenses scheme and public liability processes.
- Ensuring all relevant and required information is provided to NHSR and Trust solicitors and other relevant stakeholders.
- Informing the Head of Health, Safety and Security Management of any Health and

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Safety risk issues identified during the course of a claim.

- Informing the Care Group of any risk management issues arising from the investigation of a claim.
- Reviewing all risk property expenses and public liability scheme claims following investigation and ensuring action plans are completed.
- Providing information for the quarterly report.

4.2.9 All Staff

Any staff member who receives correspondence purporting to be a claim for compensation must immediately forward it to the Legal Services Department.

All staff are expected to co-operate fully in the assessment and management of any claim with which they may be involved. This could include providing witness statements, attending meetings with solicitors and/or barristers acting on behalf of the Trust and attending Court to give evidence.

4.3 Who may make a Claim?

A claim may be made by anyone (or on their behalf, if the person involved is unable to make the claim personally, through death or disability, if the person's first language is not English or if the person is a vulnerable adult or child) under the Clinical Negligence Scheme for Trusts (CNST)¹ or Existing Liabilities Scheme (ELS)² where it is believed that a clinician has been negligent in their professional practice and where they allege to have endured loss, pain or suffering as a result of that negligence.

A claim may be made by anyone (or on their behalf, as above) receiving a service provided by the Trust under the Liabilities to Third Parties Scheme (LTPS)³ where it is believed that they have suffered loss or detriment to their health or wellbeing resulting from the delivery of that service.

A claim may be made by an employee, visitor or contractor (or on their behalf, as above) of the Trust under the Liabilities to Third Parties Scheme (LTPS)³ where it is believed that they have suffered injury as a result of a breach of duty under Health and Safety legislation⁴.

The Trust may make a claim for compensation for the loss of or damage to Trust property via the Property Expenses Scheme⁵.

4.4 Clinical Negligence Scheme for Trusts (CNST)

Clinical negligence claims are dealt with by NHSR under the Clinical Negligence Scheme for Trusts¹. This process is managed by the Head of Legal Services and Legal Services staff.

4.4.1 Definition

A claim is any demand for monetary compensation in respect of liabilities in tort owed to a third party in respect of personal injury or loss arising out of any breach of a duty of care in connection with the diagnosis of any illness, or the care or treatment of any patient, in consequence of any act or omission on the part of a person employed or engaged in connection with any relevant function of the Trust.

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4.4.2 Notification to Legal Services

All potential clinical negligence claims should be reported to Legal Services staff immediately by the person in receipt of the claim.

A potential claim may come to light in a number of possible ways, including:

- Clinical incidents, which, on investigation, reveal a possible breach of duty or substandard care
- Complaints, where the response, on the facts, implies an admission of liability
- Requests for disclosure of records
- Letters of Claim/Proceedings

4.4.3 Notification to Patient Safety/Governance Business Partner

If the claim handler considers that a claim should have been reported as a clinical incident, s/he will notify Patient Safety/Governance Business Partner.

The incident will be investigated in accordance with the Policy for the Reporting and Management of Incidents including Serious Incidents Requiring Investigation (SIRI).

4.4.4 Notification to the NHR

This is governed by NHR's 'Reporting claims to NHS Resolution June 2017'⁶

<http://www.nhs.uk/Claims/Pages/Clinical.aspx>

Members are encouraged to speak to NHR if there is any doubt about particular circumstances and whether a matter should be reported or not.

A clinical claim should be reported in the following circumstances:

1. When investigation of a serious incident suggests there have been failings in care and there is the possibility of a large value claim (>£500,000). [Timescale: as soon as possible but no later than 3 months]
2. When some indication that a claim is being considered is received and internal investigation reveals the possibility of a significant litigation risk. [Timescale: as soon as possible but no later than 1 month]
3. When a Letter of Claim is received or Proceedings are served. [Timescale: within 24 hours]
4. When there is potential for a Group Action
5. When there are serial offender claims
6. When notification of an inquest is received and a civil claim is likely to be pursued and external representation is justified and the Trust wishes to apply for inquest funding.

4.4.5 Registration of Claims

Legal Services will register all potential claims.

The details will be recorded on the litigation database and a file will be set up.

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Each claim will be given a unique reference number. A file checklist will be attached to each folder and updated as necessary (see Appendix 1).

4.4.6 Requests for Records

When a request for disclosure has been made without a claim, the opportunity to ask for the reasons that lie behind the request should be taken.

Any request for copy medical records made in contemplation of a clinical negligence claim should be passed immediately to Legal Services.

The claim handler will acknowledge the request. S/he will check that sufficient initial information has been provided and request more where appropriate. This will include seeking the Claimant's national insurance number, if this has not already been provided, and enquiring about the Claimant's funding arrangements.

To comply with the General Data Protection Regulation (GDPR)⁷ and the Data Protection Act 2018⁸, records must be provided within **1 month** of the request.

The claim handler will diarise the deadline for disclosure.

The Medical Records Department will be asked to supply a copy set of medical records. The copies should be single sided and of good quality. They should be filed into a paginated bundle.

The Radiology Department will be asked to supply details of any x-rays and scans.

Any other relevant records will be obtained. This may include, for instance, physiotherapy notes, clinical incident forms and complaint files.

Relevant originals should be retained until the end of the claim.

4.4.7 Release of Records

The Trust has a duty under the Data Protection Act 2018⁸ to consider if disclosure would cause serious harm to the physical or mental health of a patient or other individual or reveal information from or about an identifiable third party who has not given consent to disclosure.

The claim handler will seek authority to release the copy records from the relevant healthcare professional. This will be the consultant responsible for the episode of care in question or, where this is not possible, the current consultant or the appropriate clinical director. If a response to the request is not received within **10 working days**, a further request will be sent, indicating that authority will be assumed to have been given if a response is not received within a further **5 working days**, in order to comply with deadlines.

4.4.8 Obtaining Information on Potential Claims

When writing to the relevant consultant to seek authorisation for the release of records the claim handler will also seek an analysis of the facts and an opinion on the allegations made. The consultant will respond to this request for a report within **21 days**.

All staff involved should be identified, along with their contact details.

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Where necessary, the views of other staff involved or the lead clinician/clinical director should also be obtained.

Where an incident report or complaint exists, the results of the investigation and the formal response respectively may provide sufficient information to enable a judgement to be made as to the likelihood of a claim. Reports that do not have as their sole or dominant purpose actual or prospective litigation are generally disclosable in law.

Where appropriate, a report should state clearly that it is made in response to legal action.

4.4.9 Claims Handling

Claims will either be handled in house by NHSR or assigned to a panel firm of solicitors by NHSR.

The Trust claims handler's role will be to seek information and keep staff informed as to the progress of a claim.

Any identified weaknesses will need to be addressed via the care group governance business partners and appropriate action agreed.

When a claim reaches a key stage, the NHSR claims manager will inform the Trust's claims handler so that the clinicians may be informed and may comment.

Admissions of liability and offers of settlement should be referred to the Head of Legal Services for authorisation.

4.4.10 Feedback

Feedback will be provided to Trusts from NHSR as per the Reporting Guidelines⁶
<http://www.nhs.uk/Claims/Pages/Clinical.aspx>

4.5 Reports to the Quality Committee

Quarterly claims information will be submitted to the Quality Committee.

4.6 Pre-claim analysis

A review will be carried out of incidents reported with an actual impact of moderate and above where there may be potential for a claim to be made and complaints that are reported to Legal Services because the response, on the facts, implies an admission of liability. Such reviews will form a monthly Pre-claim analysis report, which will be submitted to the Patient Safety Summit.

4.7 Ex Gratia Payments and Alternative Solutions

Any ex-gratia payments offered by the Trust are, by definition, not payments based on legal liability and are therefore not reimbursable by NHSR. Ex Gratia payments are made and authorised in line with the Standing Financial Instructions outlined in the Corporate Governance manual.

The Trust should consider whether alternative means of resolving the issues may be

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appropriate. Trusts are encouraged to offer non-pecuniary solutions to patients, where appropriate, as these often forestall monetary claims.

4.8 Signatories

Trust officers will sign defences and other relevant pleadings because Trusts remain the legal Defendants to litigation. The Trust's signatories will be: Chief Executive; Medical Director; Executive Chief Nurse; Director of Finance, Chief Operating Officer, Director of Governance, Company Secretary and Head of Legal Services.

4.9 Media

Where court hearings are likely to generate media interest, the Trust Communications Team will be notified and NHSR will agree with the Trust a press release or position to be adopted.

4.10 Liabilities to Third Parties Scheme

Claims within the Liabilities to Third Parties Scheme (LTPS)³ fall into two categories: Employer's Liability claims and Public Liability claims. The scheme is managed by NHSR.

4.11 Employer's Liability Claims

A claim is defined as:

'A demand for compensation arising from personal injury suffered by a member of the Trust's staff, during the course of their employment, which is alleged to have been caused by a failure by the Trust to exercise an adequate duty of care.'

4.11.1 Process

There is a Standard Operating Procedure with full details of the process for the management of Employer's Liability Claims. A summary is given here and at Appendix 2.

The process depends on the date of the accident:

a) For those claims resulting from an accident pre August 2013, the letter of claim from the claimant solicitors should be forwarded to Legal Services immediately. Where possible, a scan of the claim should be sent in the first instance, to facilitate prompt investigation as the liability decision period for this type of claim is 12 weeks.

Relevant Care Group Managers, Human Resource Managers and Departmental/Ward Managers are made aware of the claim at this point, so that they can supply the relevant information. The Legal Services Assistant will also provide details to the appropriate Health and Safety, Security or Manual Handling Advisor and have a discussion about relevant information and evidence which should be sought.

In order to investigate the claim and obtain all the necessary information, requests are made to relevant staff to provide this information which may include:

- Medical Records/Occupational Health/Human Resources Manager
- Ward Manager/Departmental Manager

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- Care Group Manager
- Facilities Manager
- Patient Relations Department
- Payroll Department

The information requested will include:

- Accident Form
- RIDDOR Form
- Personnel Records/Medical Records/Occupational Health Records
- Pre- and Post- accident earnings information
- Pre and Post Risk Assessments
- Training Record

The request for information is followed up, if not received within **7 days**.

The request for information is followed up with the department, if not received within **14 days**. The assigned Health and Safety, Security or Manual Handling Advisor will assist as requested by the Legal Services Assistant, in order to encourage an immediate response from the relevant Manager.

The release of documentation and records, including Occupational Health, Medical, Personnel and Physiotherapy Records is often required but must be accompanied by a signed mandate from the claimant in order that these records may be released.

b) For those claims resulting from an accident post August 2013, the letter of claim will be received by an internet based electronic portal and the liability decision period is only 30 days.

The Trust should be notified of the claim by NHSR who have access to the portal. Where a claim notification form is received from a Claimant solicitor and the covering letter confirms NHSR has not been made aware of the claim, this will be reported to NHSR **within 24 hours**. Where a claim notification form is received from a Claimant solicitor and there has been no contact from NHSR **within 3 working days**, the Trust will contact NHSR within this period.

In order to meet the deadlines of NHSR, the Trust must respond with the required information (as above) within 2 working weeks. If the above timescales are not adhered to, then the claim will drop out of the process and this will have significant cost implications.

The level of investigation will be the same for any claims.

Upon settlement of a claim, NHSR will instruct the Assistant Financial Accountant to issue payment for the amount of damages and legal fees as appropriate. The Trust has a £10,000 excess for each employer's liability claim.

Once payments have been made, the file can be closed. It will be stored for the statutory period of 10 years.

Lessons learnt from the Employer's Liability Claims are shared with the Care Groups and quarterly with the Quality Committee.

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4.12 Public Liability Claims

A claim is defined as:

'A demand for compensation arising from personal injury suffered by a member of the public or contractor, while on Trust property, which is alleged to have been caused by a failure by the Trust to exercise an adequate duty of care'.

Public liability claims are dealt with by the Assistant Financial Accountant broadly following the process detailed above. The Trust has a £3,000 excess for each public liability claim.

4.13 Property Expenses Scheme

Claims within the scheme are managed by NHSR. A claim will be made under this scheme for any damage to any buildings operated by the Trust, if the estimated cost of reinstating the damaged items is above the policy excess. Contents of buildings are also covered should they be damaged, lost or stolen; again a claim will only be made if it is likely the policy excess (£20,000) will be exceeded.

4.13.1 Process

Where a claim is to be made under this scheme, details of the claim should be forwarded to the Assistant Financial Accountant as soon as possible. The information provided should include:

- Details of property/contents damaged, destroyed, lost or stolen
- Information as to how the property/contents were damaged, destroyed, lost or stolen
- Estimated cost of replacement, with relevant quotations
- Police reference number where appropriate
- Fire officers report where appropriate
- Any other information that may be relevant to the claim e.g. photographic evidence

Upon notification of a claim and receipt of the required information, the Assistant Financial Accountant will complete a claim form, which will be sent to NHSR along with supporting information.

NHSR will investigate the claim as necessary, contacting relevant members of staff within the Trust to ascertain the circumstances surrounding the claim. Any correspondence from NHSR will be forwarded to the Assistant Financial Accountant to be kept on file.

Once NHSR has concluded its investigations, it will notify the Assistant Financial Accountant of the outcome with details of the value of compensation awarded. This information will be shared with the person who originally notified the claim.

The Assistant Financial Accountant will ensure that any compensation awarded is received by the Trust. Once payment is received, the file can be closed and will be stored for the statutory period of 10 years.

4.14 Confidentiality

It is essential that the duty of confidentiality owed by the Trust to its patients and staff is

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maintained throughout the claims process, and patient and staff records for those individuals involved in claims must not contain reference to the fact that that person has made a claim against the Trust unless absolutely necessary.

Staff and patient records must not be disclosed to any third party without the written permission of the individual or their personal representative. All personal identifiable information should be anonymised to avoid identification where possible. Copy records relating to the claims process which contain personal identifiable information and which are to be sent outside the organisation by post must be sent by recorded delivery.

Access to the Trust's litigation database should be limited to selected members of staff who deal with claims only. Personal passwords must be used which must remain unique to that system user.

Reports prepared for any purpose detailing claims information should not demonstrate staff or patient identifiable information unless necessary.

4.15 Being Open and Apologies

4.15.1 Encouraging Open Communication

Open communication can be fostered through:

- The adoption of the philosophy that every claim is a learning opportunity for the Trust and that staff will review claims to improve patient experience.
- A structured approach to claims handling in accordance with this policy, so that staff know what to expect when a claim is received.
- The sharing of lessons learned within the team, across the organisation and with other organisations.

4.15.2 Being Open – The Process

Patients involved in a claim against the Trust must feel confident that their claim will be dealt with separately and will not impact on the care that they receive. Please refer to the Trust 'Being Open' Policy in the Trust Procedural Documents Library.

Although there may be a conflict of interest if a claim is made, the claims handler will explain how to make a claim and if a potential Claimant is distressed they will refer them to the Patient Advice and Liaison Service who can signpost other support services. Any communication will be documented by the claims handler.

The Trust supports an open and honest approach to dealing with concerns raised by or on behalf of patients and all efforts must be made to keep patients (and, where appropriate, relatives) fully informed in simple, jargon free language when complications to treatment are experienced. This communication must be timely. The Trust supports the position of NHSR regarding apologies and explanations outlined below.

4.15.3 Apologies

It is both natural and desirable for those involved in treatment which produces an adverse result, for whatever reason, to sympathise with the patient or the patient's relatives and to express sorrow or regret at the outcome. Such expressions of regret would not normally constitute an admission of liability, either in part or in full.

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It is not the policy of NHR to prohibit apologies nor to dispute any payment under any scheme, solely on the grounds of such an expression of regret.

Apologies which involve or imply an admission of liability should be made after agreement with NHR and expressed in honest, clear, straightforward language avoiding the use of jargon and acronyms.

Once the Trust reports a claim to NHR, NHR deals with the Claimant or their legal representative directly.

4.15.4 Explanations

Patients and their relatives increasingly ask for detailed explanations of what led to adverse outcomes. Closely linked to this desire for information is the frequently expressed view that they will feel some consolation if lessons have been learned for the future.

The Trust supports the view of NHR to supply appropriate information whether informally, formally or through mediation.

The view of NHR is that care needs to be taken in the dissemination of explanations so as to avoid future litigation risks, but, for the avoidance of any doubt, NHR will not take a point against any NHS body or any clinician seeking NHS indemnity, on the basis of a factual explanation offered in good faith before litigation is underway. They consider the provision of such information to constitute good clinical practice, and provided that facts, as opposed to opinions, form the basis of the explanation, nothing is likely to be revealed which would not subsequently be disclosable in the event of litigation.

4.15.5 Formal Admissions of Liability

In keeping with its financial and case management responsibilities, NHR will make or agree the terms of formal admissions of liability within or before litigation. The advice from NHR is to encourage scheme members and their employees to offer the earlier, more informal, apologies and explanations so desired by patients and their families.

Following a formal admission of liability, NHR will agree with the Trust a formal letter of apology to be sent to the claimant.

4.16 Supporting Staff

The Trust acknowledges that staff whose actions may have led to another person making a claim are often upset and distressed and may need support whilst any investigations are carried out and if litigation is pending or on-going. It is crucial that individuals are offered support where necessary. Please refer to the Trust Supporting Staff policy in the Trust Procedural Documents Library.

The details of a claim will be investigated as quickly as possible to assess if any immediate action needs to be taken to protect patients, staff or Trust property or to secure information that might be subsequently lost.

Staff need to be assured that it is not the intention of the claims process to apportion blame. They should be assured that the intention is to protect the Trust's position, limit further damage both to patients and staff and to take steps to learn from the event and prevent reoccurrence.

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The claims handler is available to support all staff involved in a claim. Individuals, regardless of grade or position, may feel anxious about their involvement and their future role in the investigation process.

It is Trust policy that support is offered as part of the investigation process. Staff can be referred to the staff counselling service and/or Occupational Health.

Access to legal or any other professional advice can be sought via the Legal Team if required.

In circumstances where a conflict of interest exists between the Trust and a member of staff, staff will be encouraged to seek external advice from their professional group, or their Union Representative. Staff may also seek external legal advice from groups such as the Medical Defence Union or Medical Protection Society.

The claims handler will keep relevant staff updated about the progress of the claim and provide guidance on the preparation of statements as required.

4.17 Investigations

All investigations will be undertaken in line with the Trust's Policy for the Reporting and Management of Incidents including Serious Incidents Requiring Investigation (SIRI).

4.17.1 External Investigation/Review of Care or of a Service

Should a claim highlight an area of concern regarding a service or an area of care, the Trust may commission an external investigation/review. The process initiating an external investigation/review is documented in the Trust's Management of External Agency Visits, Inspections and Accreditations.

4.18 Process for Recalling the Patient

Where it is identified that a patient should be recalled following investigation of a claim, the responsible clinician has the responsibility for co-ordinating the recall process. The full process for recalling a patient is documented in the Trust's Policy for the Reporting and Management of Incidents including Serious Incidents Requiring Investigation (SIRI).

4.19 Process for Monitoring Compliance

The process for monitoring compliance with this procedure is identified in Appendix 3.

5. ATTACHMENTS	
Number	Title
1	Checklist for Clinical Negligence Claims
2	The Litigation Claims Process for Employer's Liability Claims
3	Process for Monitoring Compliance
4	Equality and Diversity Impact Assessment Tool

6. OTHER RELEVANT / ASSOCIATED DOCUMENTS	
Unique Identifier	Title and web links from the document library

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Corp/Proc/022	Reporting and Management of Incidents including Serious Incidents Requiring Investigation (SIRI). http://uhmb/cs/tpdl/Documents/CORP-PROC-022.docx
Corp/Pol/023	Being Open Policy http://uhmb/cs/tpdl/Documents/CORP-POL-023.docx
HR2	Policy for Supporting Staff following Traumatic or Stressful Incidents http://uhmb/cs/tpdl/Documents/HR2.pdf
Corp/Proc/030	Management of External Agency Visits, Inspections and Accreditations http://uhmb/cs/tpdl/Documents/CORP-PROC-030.docx

7. SUPPORTING REFERENCES / EVIDENCE BASED DOCUMENTS	
References in full	
Number	References
1	NHSR Clinical Negligence Scheme for Trusts. Available from: http://www.nhsla.com/claims/Documents/CNST%20Rules.pdf (accessed 22.6.18)
2	NHSR Existing Liabilities Scheme. Available from: http://www.nhsla.com/Claims/Pages/Handling.aspx (accessed 22.6.18)
3	NHSR Liabilities to Third Parties Scheme. Available from: http://www.nhsla.com/Claims/Pages/NonClinical.aspx (accessed 22.6.18)
4	HSE Health and safety legislation. Available from: http://www.hse.gov.uk/legislation/ (accessed 22.6.18)
5	NHSR Property Expenses Scheme. Available from: http://www.nhsla.com/Claims/Pages/NonClinical.aspx (accessed 22.6.18)
6	NHSR Reporting Guidelines (version 1.02 2017). Available from: www.nhsla.com/Claims/Pages/Clinical.aspx (accessed 22.6.18)
7	EU (2018) General Data Protection Regulation. Available from: https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1528874672298&uri=CELEX%3A32016R0679 (accessed 22.6.18)
8	Great Britain. Data Protection Act 2018. Available at: http://www.legislation.gov.uk/ukpga/1998/29/contents (accessed 22.6.18)
9	Ministry of Justice (2017) Pre-action Protocol for the Resolution of Clinical Disputes. Available at: www.justice.gov.uk/courts/procedure-rules/civil/protocol/prot_rcd (accessed 22.6.18)

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8. DEFINITIONS / GLOSSARY OF TERMS	
Abbreviation or Term	Definition
A claim (clinical)	A claim is any demand for monetary compensation in respect of liabilities in tort owed to a third party in respect of personal injury or loss arising out of any breach of a duty of care in connection with the diagnosis of any illness, or the care or treatment of any patient, in consequence of any act or omission on the part of a person employed or engaged in connection with any relevant function of the Trust.
NHSR	NHS Resolution
CNST	Clinical Negligence Scheme for Trusts
LTPS	Liabilities to Third Parties Scheme
PES	Property Expenses Scheme

9. CONSULTATION WITH STAFF AND PATIENTS		
Enter the names and job titles of staff and stakeholders that have contributed to the document		
Name	Job Title	Date Consulted
Anna Smith	Head of Health, Safety and Security Management	
Rachel Breakell/Marta Kok	Legal Services Assistants	
Gareth Dodds/Emma Brough/Claire Rawlinson	Legal Services Officers	
Mark Woodruff	Financial Services Assistant	
Ranu Rowan	Head of Legal Services	

10. DISTRIBUTION PLAN	
Dissemination lead:	Mary Aubrey
Previous document already being used?	Yes
If yes, in what format and where?	Available on the Intranet – Procedural Documents Library
Proposed action to retrieve out-of-date copies of the document:	Replace document on Procedural Documents Library
To be disseminated to:	
Document Library	Care Group General Managers
Quality Committee	Medical Director
Executive Chief Nurse	Legal Services
All Trust Employees	Non-Executive Directors
Proposed actions to communicate the document contents to staff:	Include in the UHMB Weekly News – New documents uploaded to the Document Library

11. TRAINING		
Is training required to be given due to the introduction of this procedural document? *Yes / No Please delete as appropriate		
Action by	Action required	Implementation Date

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12. AMENDMENT HISTORY				
Version No.	Date of Issue	Page/Selection Changed	Description of Change	Review Date
4.2		Changes throughout the document	Changes to reflect current practices, updated CNST reporting guidelines and updated Management of External Agency Visits	1/7/17
6.1		Page 4	BSF Added	01/07/2018
7	19/06/2018	Changes throughout the document	Changes to reflect current legislation and guidance, practices and titles	01/07/2021

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Appendix 1: Checklist of Clinical Negligence Claims

Checklist for Clinical Negligence Claims			
	Claimant	Injured Party (where not the Claimant)	Reference Numbers
Name			Ulysses
RTX			Claimant Solicitor
DOB			NHSR
			Trust Solicitor
Pre-action letter/Records request received on ('Date Advised' on Ulysses)			
30 day deadline for disclosure of copy records			
As soon as letter/request received:			Date completed
1	Review letter and check patient's authority for records requests		
2	Open case file on Ulysses and hard copy		
3	Obtain patient details from Lorenzo and identify treating clinicians Notify consultants of potential claim – Request authority to release records and initial comments (use memo). Copy in care group governance business partner and, for any surgical claims, clinical lead. Authority given by..... Comments provided by.....		
4	Request copy records including A&E, physiotherapy, radiology, as appropriate		
5	Check Ulysses for complaint, incident or inquest. Contact Patient Safety/Governance Business partner to see if incident was subject to RCA/SUI if not clear on Ulysses. Print and save relevant documents from complaint file/incident (on Ulysses). If internal investigation reveals possibility of claim with significant litigation risk report to NHSR within 1 month*		
6	Acknowledge solicitor's letter – request authority if not provided and records requested - ask for further clarification if needed		
7	If LoC, Part 36 offer or Proceedings received report to NHSR within 24 hours*		
Maternity claims – notify Head of Legal Services			

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Chase authority after 10 days and assume after a further 5 days. Notify Claimant solicitors of any delay.

Chase comments after 21 days.

Within 30 days of receiving records request:		Date completed
8	Review copy records	
9	Send copy records to solicitors to by recorded delivery	

On receipt of clinical comments:		Date completed
10	Make sure these address the issues raised. If comments reveal possibility of claim with significant litigation risk report to NHSR within 1month*	

If a Letter of Notification is received, ensure preliminary investigation has been carried out i.e. clinical statements and details of any related complaints and incident details obtained. Acknowledge within 14 days, confirming contact details for LoC. Report as an incident or to NHSR as appropriate.

If no further contact for 6 months – write to solicitors for update and close file if not proceeding with claim (complete steps 18-19)

Formal Letter of Claim/Proceedings received on..... If no previous “pre-action” letter has been received complete steps above.

As soon as LoC/Proceedings received:		Date completed
11	Report to NHSR within 24 hours* (Note on file those documents which have been supplied)	
12	Acknowledge Letter of Claim within 14 days but do not refer to it as a LoC	
13	When proceedings/claim form are received, the Acknowledgement of Service must be returned to the Court within 14 days if the Particulars of Claim are attached. This should be signed by the Head of Legal Services or an Executive Director	
14	Send original notes to clinicians with request for detailed response to the allegations Comments provided by.....	
15	Ongoing liaison with NHSR, Claimant’s solicitors and Trust’s solicitors Claimant Part 36 offers should be reported to NHSR within 24 hours	
16	Letter of Response served (by NHSR) (within 4 months of LoC) This must be shared with the relevant clinicians and authorised by the Head of Legal Services or an Executive Director	
17	Defence served (by Trust’s solicitors)	

Notification that claim is settled/withdrawn received on.....

As soon as notified that case is closed:	Date completed
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18	Send outcome to consultants/care group	
19	Review and complete Ulysses and hard copy file (archive)	

Update case précis as claim progresses, particularly when allegations are refined (on receipt of LoC or PoC) or when expert evidence is received (note whether it is un/supportive).

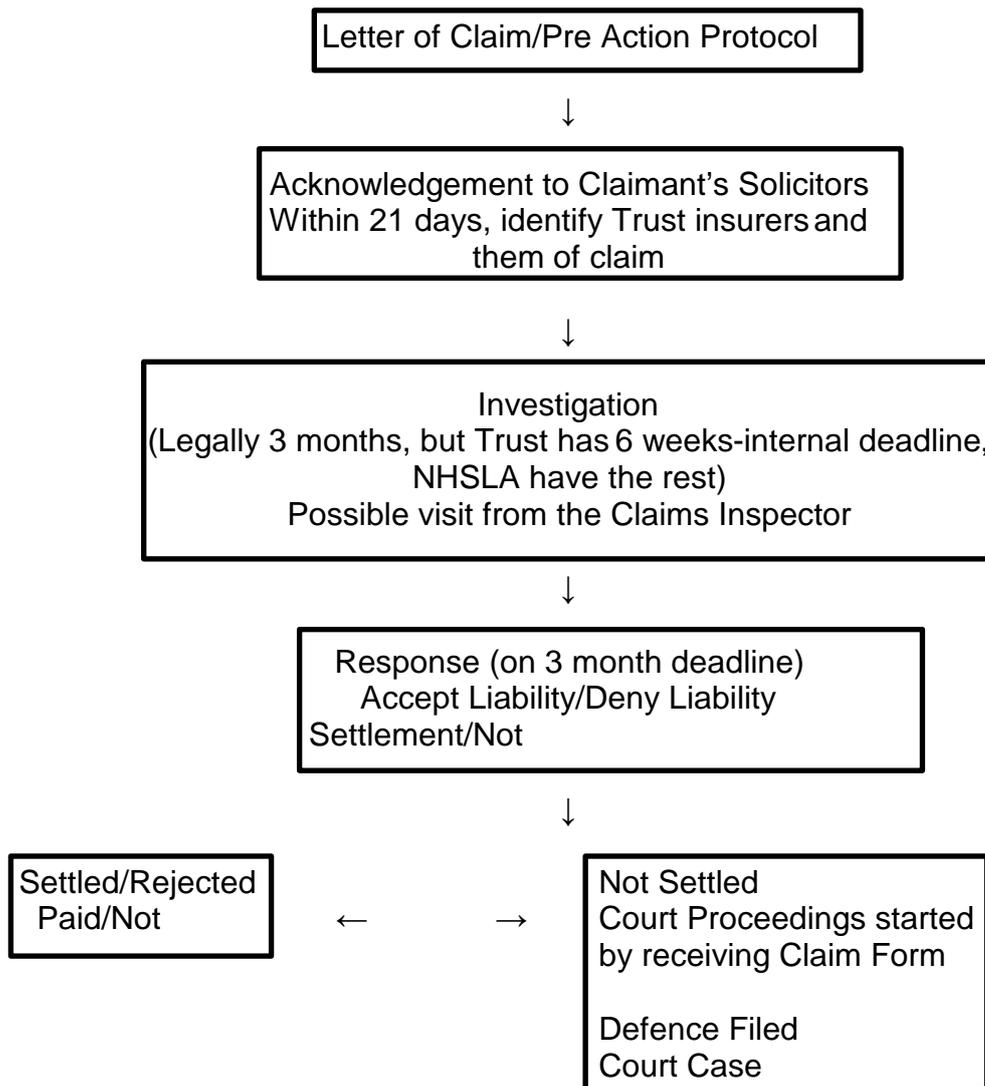
Potential Group Action and Serial Offender claims must be **reported to NHR as soon as possible**

Serious incidents where investigations suggest there have been failings in the care provided and there is the possibility of a large value claim (>£500,000) must be **reported to NHR within 3 months**

*A Clinical Claim Report Form must be completed for every claim reported to NHR and the Clinical Claim Useful Documents Guide on the NHR Extranet provides guidance on the relevant supplementary information/documents. When a claim is submitted to NHR, if an incident has not already been raised, contact the Care Group and ask that this be considered.

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Appendix 2: The Litigation Claims Process for Employer's Liability Claims



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Appendix 3: Process for Monitoring Compliance

Requirement	Method	Frequency	Lead	Monitoring Group	Action plan lead	Committee/ group overseeing Action Plan
Action to be taken including timescales	KPI's	Monthly	Head of Legal Services/ Assistant Financial Accountant	Quality Committee	Head of Legal Services/ Assistant Financial Accountant	Quality Committee
Follow up of action plans	Review of care group Governance and Assurance minutes	Quarterly	Care Group Governance Business Partners	Care Group Governance and Assurance Groups	Care Group Governance Business Partners	Quality Committee

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Equality Impact Assessment Form

Department/Function	Legal Services		
Lead Assessor	Head of Legal Services		
What is being assessed?	Claims Management Policy		
Date of assessment	19/6/18		
What groups have you consulted with? Include details of involvement in the Equality Impact Assessment process.	Equality of Access to Health Group		Staff Side Colleagues
	Service Users		Staff Inclusion Network/s
	Personal Fair Diverse Champions		Other (Inc. external orgs)
	Please give details:		

1) What is the impact on the following equality groups?		
Positive:	Negative:	Neutral:
<ul style="list-style-type: none"> ➤ Advance Equality of opportunity ➤ Foster good relations between different groups ➤ Address explicit needs of Equality target groups 	<ul style="list-style-type: none"> ➤ Unlawful discrimination, harassment and victimisation ➤ Failure to address explicit needs of Equality target groups 	<ul style="list-style-type: none"> ➤ It is quite acceptable for the assessment to come out as Neutral Impact. ➤ Be sure you can justify this decision with clear reasons and evidence if you are challenged
Equality Groups	Impact (Positive / Negative / Neutral)	Comments <ul style="list-style-type: none"> ➤ Provide brief description of the positive / negative impact identified benefits to the equality group. ➤ Is any impact identified intended or legal?
Race (All ethnic groups)	Neutral	
Disability (Including physical and mental impairments)	Neutral	
Sex	Neutral	
Gender reassignment	Neutral	
Religion or Belief	Neutral	
Sexual orientation	Neutral	
Age	Neutral	
Marriage and Civil Partnership	Neutral	
Pregnancy and maternity	Neutral	
Other (e.g. caring, human rights)	Neutral	

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2) In what ways does any impact identified contribute to or hinder promoting equality and diversity across the organisation?	
--	--

3) If your assessment identifies a negative impact on Equality Groups you must develop an action plan to avoid discrimination and ensure opportunities for promoting equality diversity and inclusion are maximised. <ul style="list-style-type: none"> ➤ This should include where it has been identified that further work will be undertaken to further explore the impact on equality groups ➤ This should be reviewed annually.

Action Plan Summary

Action	Lead	Timescale

This form will be automatically submitted for review for Policies and Procedures once approved by Policy Group. For all other assessments, please return an electronic copy to EIA.forms@mbht.nhs.uk once completed.

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