NHS
Mid and South Essex
University Hospitals Group

Document Title:	**CLAIMS HANDLING POLICY & PROCEDURE**		
Document Reference/Register no:	04081	**Version Number:**	8.0
Document type: (Policy/ Guideline/ SOP)	Policy	**To be followed by:** (Target Staff)	All trust staff
Ratification Issue Date: (Date document is uploaded onto the intranet)	13th September 2019	**Review Date:**	12th September 2022
Developed in response to:	NHSLA Legal Requirement Risk Management		
Contributes to HSC Act 2008 (Regulated Activities) Regulations 2014(Part 3); and CQC Regulations 2009 (Part 4) **CQC Fundamental Standards of Quality and Safety:**	Outcome 16, Regulation 10		
Issuing Division/Directorate:	Corporate		
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Hospital Sites: (tick appropriate box/es to indicate status of policy review i.e. joint/ independent)	✓MEHT □ BTUH □ SUH		
Consultation:	(Refer to page 2)		
Approval Group / Committee(s):	n/a	**Date:**	n/a
Professionally Approved by: (Asset Owner)	James Day, Trust Secretary	**Date:**	23rd August 2019
Ratification Group(s):	DRAG Deputy Chair's Action	**Date:**	30th August 2019
Executive and Clinical Directors (Communication of minutes from Document Ratification Group	**Date:** September 2019	**Distribution Method:**	Electronic copy to all appropriate staff on email Intranet & Website.

Consulted With:	Post/ Approval Committee/ Group:	Date:
Helen Clarke	Head of Governance	27th August 2019

Related Trust Policies (to be read in conjunction with)	18030 Risk Management Strategy & Policy 10088 Learning from Experience Policy 04082 Complaints Handling Policy & Procedure 04086 Access to Patient Records Policy 08063 Being Open and Duty of Candour Policy 08070 Supporting staff involved in a traumatic incident, complaint or claim 08092 Mandatory Training Policy (Training Needs Analysis) 04064 Safeguarding Children & Young People Policy 08034 Safeguarding Adults Policy 04029 Disciplinary Policy 09100 Incident Policy 11025 Serious Incident Requiring Investigation Policy

Document Review History:			
Version No:	**Authored/Reviewer:**	**Summary of amendments/ Record documents superseded by:**	**Issue Date:**
1.0	Governance Committee		February 2003
2.0	Governance Committee		June 2007
3.0	Document Ratification Group		
5.0	J Shepard, H Clarke		25 August 2011
6.0	J Shepard, J Day	Review/amendment: Section 8 – Investigation and Implementing Change	19 November 2012
7.0	J Shepard		17 October 2014
7.1	J Shepard	Extension agreed – October 2018	14 November 2017
7.2	J Shepard	Extension agreed – March 2019	18th October 2018
7.3	J Shepard	3 month extension request due MSB standardisation	5th April 2019
8.0	Julie Shepard	Full review	13th September 2019

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1. Purpose of Policy

1.1 This document describes the Trust's claims management process providing guidance on how claims involving third parties such as NHS Resolution (NHSR), solicitors, claimants and HM Coroner should be dealt with within the organisation.

1.2 The policy outlines the responsibilities of the staff involved and reflects the NHSR claims reporting guidelines for Clinical Negligence Scheme for Trusts (CNST), Liabilities to Third Parties (LTPS), Property Expenses Scheme (PES) and Employees' and Public Liability Scheme (ELS).

1.3 Adherence to this policy will ensure that the Trust complies with the requirements of the Pre-action Protocol for the Resolution of Clinical Disputes and the Pre-action Protocol for Personal Injury and Civil Procedure Rules.

2. Background

2.1 A claim can be defined as "a demand for compensation made following an adverse incident resulting in damage to property and or personal injury".

2.2 All claims are conducted as per the guidelines laid out by NHSR.

2.3 Clinical Negligence Claims are investigated and reported within the framework as laid out in the CNST Reporting Guidelines.

2.4 Non-clinical Negligence Claims are investigated and reported within the framework as laid out in the Non-Clinical Claims Reporting Guidelines.

2.5 There are 6 main types of claims that could be made against the Trust. These are:

- Clinical Negligence – injury to a patient as a result of treatment;
- Employer Liability – injury to staff at work or damage to property;
- Public Liability – injury to patient or member of the public (not as a result of clinical treatment) or damage/loss of property;
- Vehicle accidents;
- Third Party Income Generation;
- Employment Law.

3. Scope

3.1 This policy applies to all staff working for Mid Essex Hospital Services NHS Trust.

4. Roles and Responsibilities

Name	Accountability and Responsibilities
Trust Board	The Trust Board will seek assurance that the Claims and Inquests management process within the Trust is working effectively
Quality Committee in Common	The Quality Committee in Common will receive and scrutinise claims data and report to the Trust Board as required
Health and Safety Group	The Health and Safety Group will receive and scrutinise non clinical claims data and report to the Trust Board in accordance with the Terms of Reference.
Chief Executive	*Accountable to:* Trust Chairman *Responsible for*: The overall handling of claims and inquests within the Trust. Ensure that no patient or member of staff is discriminated against or their care adversely affected following a claim. Ensure there are systems in place to provide support to staff involved in litigation matters.
Trust Board Secretary, Solicitor and Director of Strategy	Accountable to: Chief Executive and the Managing Director *Responsible for*: Ensuring systems are in place and implemented for the overall management of claims and inquests related matters within Trust. Ensure no patient is discriminated against or their care adversely affected by them making a claim against the Trust. Ensuring there are systems in place to provide support to staff involved in claims and inquests.
Claims & Legal Manager	*Accountable to*: Trust Board Secretary, Solicitor and Director of Strategy *Responsible for:* Liaise with NHSR to ensure Claims are dealt with promptly, efficiently and in accordance with agreed procedures. Ensuring there are systems in place to provide support to staff involved in claims. Monitor and assess the effectiveness of the claims handling process. Gather information required for the investigation of claims. Keep records of correspondence and documentation accumulated as part of the investigation of claims. Draft letters/e-mails as required to claimants / NHSR / nominated solicitors / members of staff / other external bodies as required. Keep records of recommendations / learning as a result

	of claims investigations and include in reports as required by the Quality Committee in Common and Health & Safety Group. Claims reporting as required by the Trust Board, Quality Committee in Common, Risk & Compliance Group, Health & Safety Group and Directorate Governance Meetings Liaise with NHSR, nominated Solicitors and other external bodies as required with regard to the handling of claims received against the Trust. Ensure no patient is discriminated against or their care adversely affected by them making a claim against the Trust.
Clinicians / Specialist Advisors Estates Managers	*Responsible for*: providing information requested by Claims & Litigation Team within a specified timescale.
Senior Managers	*Responsible for:* Providing information requested by Claims & Litigation Team within a specified timescale and ensuring any identified risk management recommendations and action points are implemented within identified timescales
All Trust Staff	*Responsible for:* All Trust staff have a responsibility to be aware of the Trust's Claims and Inquests Policy. All staff should alert the Claims and Legal Manager to any matters that may lead to a claim by completing an incident form. All Trust staff should co-operate with investigations into claims and inquest related matters, and provide information when requested by the Claims & Litigation Team. All staff should ensure that documentation concerning a possible litigation claim is kept separate from the medical record. Ensure that no patient or member of staff is discriminated against or care adversely affected by them making a claim against the Trust.
Occupational Health Department	*Responsible for:* Providing support to any member of Trust staff involved in a claim or inquest who has been referred to them.

5. General Guidance

5.1 Notification of a claim or potential claim can come from a number of sources. The main sources are:

- Service of claim form/particulars of claim;
- Solicitors letter;
- Letter direct from claimant;
- Request for access to records;
- Identified by Complaints and PALS Team – request for compensation in respect of alleged clinical negligence – (but not reimbursement for losses, which are dealt with under the Complaints Policy);

- Incident report;
- Notification from HM Coroner that an inquest into a death is to be held.

5.2 Potential claims and claims against the Trust's schemes with NHSR non-clinical claims are handled by the Claims and Litigation Team.

5.3 Claims relating to Employment Law (ET1) are not the responsibility of the Claims and Legal Manager, and are handled by the Head of Human Resources in accordance with HR policy.

5.4 Motor vehicle claims are dealt with by the Transport Department.

5.5 Claims in respect of Third Party Income Generation (non-NHS); should be passed to the Claims and Litigation team without delay.

5.6 Anyone receiving a claim or potential claim should pass the letter directly to the Claims and Litigation Team without acknowledgement.

5.7 Clinical Negligence claims can be made by any patient or their representative. In the case of deceased patients, a claim can be brought by the family and/or the Estate of the deceased, or their representative.

5.8 Employers' liability claims can be brought by a member of staff or their representative.

5.9 Public liability claims can be brought by members of the public, contractors or patients involved in non-clinical incidents or their representative.

6. Disclosure of Medical Records

6.1 A request for disclosure of medical records can be received prior to submission of a claim. Requests for disclosure of medical records are made under the General Data Protection Act 2018 (GDPR) or, in the case of records relating to a deceased patient, under the amended Data Protection Act 2018 (DPA).

6.2 If the request for disclosure suggests that the request is in relation to actual or potential litigation against the Trust, then this will be dealt with by the Claims and Litigation Team. In cases where there is no indication of a claim or potential claim against the Trust, disclosure will be dealt with by the Access to Records Bureau.

6.3 Disclosure will normally be electronic, i.e. records will be saved (scanned in the case of paper records) to an encrypted disc which is sent by mail to the requester, with the password sent by email.

6.4 The procedure for disclosure of medical records is detailed in the 'Access to patient records policy'; register number 04086.

7. Timescales

7.1 There are a number of timescales targets which apply to the claims management process.

7.2 Provision of a copy health records under GDPR is one month from the date of the request. In the case of deceased records when the DPA applied, disclosure is due within 40 days of the request.

7.3 Reporting a potential clinical negligence claim to NHSR should occur within a maximum of 1 month of receiving an indication of a claim.

7.4 Clinical Negligence claims are reported via the Claims Management System on the NHSR Extranet within one working day of receipt of the Letter of Claim/Part 36 Offer/Proceedings, with completed documentation to follow within 2 weeks.

7.5 Non-clinical claims are reported electronically by the claimant (or by solicitors acting on their behalf) directly to NHSR via the claims' portal. Non-clinical claims cannot be accepted directly to the Trust.

7.6 Responding to the Claimant solicitor's Letter of Claim with a Letter of Response (with either an admission or denial of liability) should occur no later than 3 months after receipt of Letter of Claim. Any proposed admission of liability must be first approved by NHS Resolution.

7.7 Acknowledging the service of formal proceedings (i.e. the Claim Form, Particulars of Claim, Schedule of Damages) should occur no later than 14 days from receipt otherwise the Claimant may enter judgment against the Trust.

7.8 Serving a Defence should occur 28 days from receipt of proceedings. An extension may be applied for if, for example, the proceedings were incomplete or the Claimant's solicitor has not complied with the Pre-action Protocol due to a limitation issue.

8. Liaison with Relevant Stakeholders

8.1 During the claims management process effective liaison with external and internal stakeholders should be maintained. Liaison will be via the Claims and Legal Team. The key tasks are as follows:

8.2 **NHS Resolution -** the Claims and Legal Manager is responsible for the initial reporting of a new claim to NHS Resolution and on-going liaison thereafter, including seeking their approval of any proposed press release, admissions or settlement offers in respect of claims matters.

8.3 **Coroner's Office -** act as link where indicated, between the Trust and the Coroner's office where a claim has been made against the Trust. (Refer to section 10)

8.4 **Police -** Responsible for assisting the police as appropriate in respect of matters reported to them which may or may not then become the subject of a claim or inquest.

8.5 **Claimant's and Defendant's Solicitors -** responsible for initial liaison with claimant solicitors and for on-going liaison with the appointed panel defence solicitors once they have been instructed by NHSR.

8.6 **Other Health Organisations -** Responsible for liaising with other relevant NHS organisations involved with any new claim or inquest matter to ensure there is effective communication, cooperation and management. This may include sharing lessons learnt following the completion of a claim.

9. Clinical Negligence Claims

9.1 Potential Clinical Negligence Claims

9.1.1 There are 5 main ways that the Trust can be notified of a potential clinical claim:

- A direct request for disclosure of notes made by the Claimant (or representative) or the Claimant's solicitor indicating potential claim;
- A request for disclosure of notes where the Health Care Professional thinks there is a potential claim;
- Identified as a potential claim during a complaint investigation.
- Following a reported incident (Datix);
- Notification of an Inquest from HM Coroner.

9.1.2 Potential claims for clinical negligence are logged onto the Datix database. They may be reported to NHSR as potential claims in the case of the following:

- Trust investigations (either complaint or incident) identify that there is a risk of a claim being pursued;
- Trust considers there may have been a breach of duty;
- Media attention/publicity in relation to potential negligence;
- Trust has been notified of an Inquest and considers there to be a litigation risk, in which case funding for legal representation at the Inquest is applied for.

9.1.3 Reporting of potential claims should occur within 3 months of the date the Trust becomes aware of the matter.

9.2 **Clinical Negligence Claims**

9.2.1 Claims for Clinical Negligence against the Trust can be received:

- Letter from the claimant or on their behalf by a representative (Litigation Friend);
- Letter from the legal representative (solicitor) of the claimant;
- Via a letter of complaint.

9.2.2 All letters of claim should be forwarded to the Claims and Litigation Team. There should be no communication from other Trust staff in relation to the matter of the claim to the Claimant or their representative.

9.2.3 Claims for Clinical Negligence are logged onto the Datix database, and are reported to NHSR.

9.2.4 Below are the reporting timescales for clinical claims (*see Appendix 1: Reporting claims to NHS Resolution)*:

Letters of Claim Part 36 offers to settle Proceedings	Within 24 hours of receipt – with completed documentation to follow within 2 weeks
Group Actions - ie any adverse issue which has the potential to involve a number of patients (eg failure of a screening service)	As soon as possible but no later than 1 month from date of awareness - *report to NHS Resolution irrespective of whether or not claims have been notified to the Trust*
Serial offender claims – ie claims arising from the alleged negligence and/or serious professional misconduct of a staff member affecting a number of patients	As soon as possible – *report to NHS Resolution irrespective of whether or not claims have been notified to the Trust*
Notification of Inquest – when a civil claim is, or is likely, to be pursued based on the subject matter of the inquest and when external representation at an inquest is justified, or the Trust wishes to apply to NHSR for funded representation	No less than 1 month from the inquest date
Maternity Incidents – Early Notification Scheme – eligible babies include those born at term (≥37 weeks of gestation, following labour, that had a severe brain injury diagnosed in the first seven days of life. These are babies that had one or more of the following: • Diagnosed with grade III hypoxic	Within 30 days of the incident

Ischaemic encephalopathy (HIE) • Actively therapeutically cooled • Had all three of the following signs: decreased central tone; comatose, seizures of any kind	

9.2.5 NHSR may handle the claim on behalf of the Trust or more likely, instruct Panel solicitors to act for the Trust. There will be no further direct communication between the Trust and the claimant regarding the matter of the claim. All correspondence will be undertaken by the NHSR or appointed Panel solicitor.

9.2.6 Claims which have not previously been investigated as a complaint or an incident are retrospectively reported as an incident on the DatixWeb database. The matter will then be reviewed by the Division/Directorate and the matter discussed at the Director Review Group (DRG) who will assess whether a Serious Incident (SI) investigation should be undertaken.

9.2.7 The co-ordination of all documentation required by NHSR or Panel solicitor will be undertaken by the Claims and Litigation Team.

9.2.8 The Trust's Letter of Response is due within three months of receipt of the claim; this letter is drafted and sent by NHSR or Panel solicitors. The due date of the Letter of Response can be extended with the agreement of both parties (the Claimant and the Trust).

9.2.9 Comments in relation to the allegations made and the clinical management of the case will be requested from relevant clinicians, including the Consultant responsible for the care. A deadline for completion of these comments and their return to the Claims and Litigation Team is given at the time of the request. A copy of this request will be sent to the Clinical Director (or other nominated person by the Clinical Director) to ensure that they are aware that a claim has been received. (Refer to Appendix 2 – Preparing a report for a legal claim or inquest)

9.2.10 Liaison with NHSR and Panel solicitors will take place via the Claims and Litigation Team to ensure that information required to assist in the defence of a claim is obtained and submitted as requested.

9.2.11 Decisions on the handling of the case rests with the NHSR claims handler, however the Trust remains the legal defendant. The Trust has an opportunity to voice its opinion on major decisions in relation to the defence of the claim.

9.3 **Conclusion of a Claim**

A claim can conclude in a number of ways:

- Claimant is successful at trial;
- Trust is successful at trial;
- Claim is settled before trial (settled Out of Court);

- Claim is settled without admissions of liability (settled Out of Court);
- Claim is withdrawn/discontinued.

9.4 Once a claim has been concluded, staff involved in the case are notified of the outcome by the Claims and Legal Manager.

10 Inquests

10.1 The Coroner may call an Inquest for a number of reasons, including when the death has been violent or unnatural, sudden with an unknown cause or has occurred in prison or in a place (including a hospital) where the deceased was held in custody, and in circumstances where he or she considers an inquest is required.

10.2 An Inquest is not intended to be confrontational, it is a fact-finding hearing and there are no "sides". The Coroner has 4 questions to answer:

- Who died;
- When they died;
- Where they died;
- How they came about their death.

10.2.1 The first 3 issues are usually answered very easily and the reason for the Trust involvement is to assist in answering the final question – how the deceased came about their death.

10.2.2 There are a range of conclusions (outcomes) available to the Coroner. These include 'short form' conclusions such as "natural causes", "suicide", "unlawful killing", and "accident/misadventure". The Coroner may include a rider of neglect if it is felt that the treatment, or lack of it, contributed to the patient's death. In this context neglect means a gross failure to provide basic medical attention for someone in a dependent position. Alternatively the outcome may be a narrative one – in this case the Coroner may detail the cause of death as well as the matters that contributed to it, e.g. "...due to an unforeseen complication of a necessary medical procedure…"

10.3 In most cases notification to the Trust that an Inquest is to be held is made by the Coroner's Officer to the Claims and Legal Manager. The Coroner's Officer will usually provide the following:

- Name, date of birth, date of death;
- Cause of death;
- If an Inquest hearing has been scheduled, including the date, time and location and, if this will be an inquest heard by a jury;
- A request for a copy of the medical records;
- A request for either individual statements from clinicians they have identified (by name or role) or a request for an overview;

- Statement/report(s) from the clinician(s) responsible for the care during the admission at the time of the death or at any time prior to the death;
- A request for a copy of an SI/RCA report if an investigation has been or will be undertaken by the Trust;
- A request that clinician(s) confirm that they will be available to attend the inquest in person should this be required by the Coroner;
- If the Coroner has requested or obtained independent expert witness evidence.

10.3.1 If a member of staff becomes aware that an Inquest is to be held, possibly through direct contact from the Coroner's Office, the Claims and Legal Manager should be notified immediately.

10.4 Inquests are logged onto Datix under the claims module. If an incident relating to the death has not been reported, then a retrospective incident will be reported by the Claims and Legal Team. In the event that an SI investigation is already underway, the clinical department will be notified that an Inquest is to take place and that the progress of the SI will be monitored as this report will be required to be disclosed to the Coroner.

10.5 Statements/reports will be requested from clinicians by the Claims & Legal Manager as required by the Coroner. Any statements obtained during the course of an SI investigation are disclosable to the Coroner together with the SI report – statements for the SI investigation must be identical to any provided separately to the Coroner.

10.6 In the event that an SI investigation has not been undertaken prior to notification that an Inquest is to be held, once statements/reports are received by the Claims and Legal Team they are reviewed and shared with the Directorate to be taken to DRG (Director Review Group) for further review and assessment as to whether further internal investigation is required.

10.7 Statements/reports provided to the Coroner are reviewed and approved by the Trust Secretary/Solicitor prior to disclosure. Statements/reports are to be provided to the Coroner within one month of the request, however it is acknowledged by Coroners that SI investigations take longer and the Claims and Legal Team will notify them of the expected completion date.

10.8 Any Action Plans developed as a result of an SI (whether started prior to notification of the inquest or as a result of notification of the inquest) should be updated by the Department responsible and sent to the Claims and Legal Manager prior to the hearing.

10.9 At the time of notification of an Inquest from the Coroner's Office, a copy of the PM (Post Mortem) report will be requested by the Claims and Legal Manager and, once received, shared with clinical staff. However, it should be noted that PM reports are shared with the Trust at the discretion of the Coroner, and it is the practice of some Coroners not to do so until they have received all reports and statements they have asked for; their intention in

withholding PM reports is usually to ensure that they are not written with the conclusion of the PM report in mind.

10.10 If concerns from the family have been received by the Coroner, they are usually provided to the Trust to enable investigation and response to any specific issues raised.

10.11 Requests from the Coroner for provision of a copy of the medical records are dealt with by the Access to Records Team.

10.12 Sometimes, the provision of reports/statements is all that is required of the Trust. On these occasions the written evidence provided by the Trust will usually be read in Court and accepted as evidence without the need for witness attendance to answer questions in Court. If this is the case, this will be confirmed by the Coroner's Officer to the Claims and Legal Team who will notify the clinicians involved.

10.13 In the event that Trust staff are required to attend the Court to give evidence in person, notification is sent by the Coroner's Officer to the Claims and Legal Team however it should be noted that on occasion, the Coroner's Officer may contact staff directly. Staff should be aware that a request to attend an Inquest is a demand and should not be ignored. A finding of contempt of Court could be made in the case of non-attendance, and a fine by the Court imposed. Any issue or difficulty with attendance should be notified to the Claims and Legal Team immediately, who will liaise with the Coroner's Officer as appropriate.

10.14 Witnesses from the Trust are Witnesses of Fact. They will be required to answer questions relating to the care and treatment provided to the deceased as detailed in their statement which will have been made from documentation within the medical record and/or their recollection.

10.15 The Claims and Legal Team will make every effort to ensure that witnesses are fully prepared and supported prior to, and when attending, an inquest. A meeting will be held with the witness to discuss the inquest process and to provide an opportunity to discuss any concerns. Witnesses may also be supported by an external solicitor acting for the Trust, in these cases witnesses will also have the opportunity to meet with the solicitor prior to the inquest (this may be in person or via a telephone meeting).

10.16 In cases where there is concern regarding the Trust's management of a patient which may have contributed to the death, i.e. if potential clinical negligence is identified, the Claims and Legal Team will report the matter to NHSR who may provide funding for representation at the Inquest by the Trust's Panel firm of solicitors.

10.17 When an inquest is to be held with witness attendance from the Trust, the Claims and Legal Manager will notify the Managing Director, Medical Director, Director of Nursing and Head of Communications at least 48 hours in advance

by email, including a brief summary of the case and the Trust staff who have been called as witnesses.

10.18 Wherever possible, the Claims and Legal Manager or Trust Secretary/Solicitor will attend the inquest to provide support to the witnesses and to liaise with the Coroner's Officer. Witnesses will be given the opportunity immediately before the inquest begins to discuss any remaining concerns they have relating to the inquest.
(Refer to Appendix 3: Guide for giving evidence at Coroner's Court)

10.19 The Claims and Legal Manager will be responsible for ensuring that the original paper medical records (if they exist) or a copy of the relevant records, are available at the Coroner's Court and safely returned to the Trust.

10.20 Press Statements – refer to Media Interest, section 19.

10.21 The Claims and Legal Manager will inform witnesses and senior staff of the outcome of the Inquest by email, by the end of the following working day. In the case of media interest, notification to the Communications Team will be the same day.

10.22 HM Coroner has an obligation to issue a Prevention of Future Deaths notice (PFD) (also known as a Regulation 28 notice) in the event serious concerns are identified at the inquest which the Trust has not already acted upon and which present an issue of safety for patients, members of the public and staff. In the event that a PFD is issued, this will be passed to the Trust Secretary, Solicitor and Director of Strategy within 24 hours of the conclusion of the inquest, for dissemination and action to appropriate senior staff, including the Trust Board.

10.23 A person/organisation in receipt of a PFD is required to provide a response to the Coroner within 56 days – this will include details of the actions taken to reassure the Coroner that their concerns have been addressed to prevent future deaths. The investigation and writing of the response will be the responsibility of the directorate concerned. The response will be sent by the CEO.

10.24 The CCG will be informed that the Trust has received a PFD, and will provide them with a copy of the response.

10.25 Closed inquests, including the outcome, are reported monthly to the Risk and Compliance Group, to the Quality Committee in Common and quarterly Directorate reports.

11. Liability Third Party Claims (LTPS) – Non-clinical Claims

11.1 Non-clinical claims include:

- Employers' Liability;
- Public Liability;
- Products Liability;
- Professional Indemnity.

11.1.1 These claims are known as third party liability claims; they are covered by the LTPS part of Risk Pooling Scheme for Trusts (RPST) run by NHSR.

11.2 The excess levels for these claims are:

Employers Liability	£10,000;
Public Liability	£3,000;
Products Liability	£3,000;
Professional Indemnity	£3,000;
Property Damage	£20,000;
Contracts Work	£20,000.

11.3 All claims above excess are handled by NHSR and for a fee of £200 per claim (+VAT) the NHSR will undertake the claims handling of below excess claims (+ defence costs). However if there is no doubt that the Trust is responsible for damage caused to a third party, then the Claims and Legal Manager may discuss with the Manager of the relevant area responsible for causing the damage whether the claim should be settled directly by the Trust without reference to NHSR. This would apply when the claim is for the repair or replacement of property with respect of specific damage to or loss of that property, not for those involving personal injury claims (e.g. damage to vehicles in the car parks) or those for which compensation is claimed.

11.4 When managers make a decision to make an ex gratia payment for loss or damage to personal property, the costs will be met from that department's budget. When financial redress is requested in respect of a complaint, when there is no allegation of clinical negligence, this will be dealt with by the PALS and Complaints Team under the Complaints Policy (Register 04082).

11.5 The Claims and Litigation Team should be informed of any incident or concern where there is a potential for a claim being brought against the Trust. This ensures that any necessary steps can be taken to investigate and notify NHSR.

12 Employers' Liability Claims

12.1 Where an employee makes a claim against the Trust in relation to injury or harm sustained at work, this is known as an Employers' Liability claim.

12.2 The majority of these claims fall within what is described as a low value claims, i.e. with estimated damages under £25,000. These must be reported by the Claimant via an electronic Claims Portal directly to NHSR who will acknowledge receipt. These claims must be concluded within 30 working days – in the event that conclusion is not achieved within this timeframe, the claim will drop out of the Portal and continued management will be in line with the management of higher value claims.

12.3 Claims with estimated damages value of over £25,000 are submitted to the Trust in writing and must be registered with NHSR within 24 hours of receipt, with completed documentation to follow within 2 weeks.

12.4 The Claims and Litigation Team will, in respect of all Employers' Liability Claims, obtain relevant documentation from appropriate staff to support the investigation of the claim and forward to NHSR or nominated Panel Solicitors to enable the Trust's response to be submitted within 30 working days.

12.5 Documentation required will vary depending on the claim, but is likely to include the following:

- Earnings (payroll) information relating to the period 13 weeks prior to cessation of work; earnings during absence of work and 13 weeks after return to work;
- Incident documentation including the incident report and subsequent investigation reports;
- RIDDOR form;
- Pre and Post Incident Risk Assessments;
- Records relating to Inspection, Maintenance and Repair;
- Witness statements;
- Copies of any relevant policies and procedures in place at the time of the incident.

12.6 During the conduct of the claim the Claims and Litigation Team will liaise with NHSR or nominated panel solicitors to provide information requested by them.

13 Public Liability Claims

13.1 A claim against the Trust's Public Liability Scheme may be made by a member of the public who is injured or harmed as a result of an incident on Trust premises.

13.2 The majority of these claims fall within what is described as a low value claims, i.e. with estimated damages under £25,000, must be reported by the

Claimant via an electronic Claims Portal directly to NHSR who will acknowledge receipt. These claims should be concluded within 40 working days in the event that conclusion is not achieved within this timeframe, the claim will be dealt with outside the Portal in line with the management of higher value claims.

13.3 Claims with an estimated damages value of over £25,000 are submitted to the Trust in writing and must be registered with NHSR within 24 hours of receipt, with completed documentation to follow within 2 weeks.

13.4 The Claims and Litigation Team will, in respect of all Public Liability Claims, obtain relevant documentation from appropriate staff to support the investigation of the claim and forward to NHSR or nominated Panel Solicitors to enable the Trust's response to be submitted within the 40 working days.

13.5 Documentation required will vary depending on the claim, but is likely to include the following:

- Incident documentation including the incident report and subsequent investigation reports;
- RIDDOR form;
- Pre and Post Incident Risk Assessments;
- Records relating to Inspection, Maintenance and Repair;
- Witness statements;
- Copies of any relevant policies and procedures in place at the time of the incident.

13.6 During the conduct of the claim the Claims and Litigation Team will liaise with NHSR or nominated panel solicitors to provide information requested by them.

14. Property Expense Scheme (PES)

14.1 This policy is part of the RPST and details of this scheme provide cover for the following:

- Schedule 1 - General Exceptions;
- Schedule 2 - Property Damage Expense - Indemnity limited to £1.0million;
- Schedule 3 - Business Interruption Expense - **Excess amount £20k;**
- Schedule 4 - Money expense - **Excess amount £20k;**
- Schedule 5 - Goods in Transit Expense - **Excess amount £20k;**
- Schedule 6 - Engineering Expense - **Excess amount £20k;**
- Schedule 7 - Fidelity Guarantee Expense - **Excess amount £20k;**
- Schedule 8 - Contract Works Expense - **Excess amount £20k.**

14.2 The Claims and Legal Manager will ensure that the requirements of the scheme are fully understood to anybody reporting such loss and that any claims the Trust should be making are submitted in accordance with the scheme rules. Details of any losses should be reported to the Claims and

Legal Manager, and reporting of losses will take place if the value exceeds the Trust's excess amount.

15. Commercial Insurance

15.1 The activities below (numbered under section 16 to 18) are not included within the cover provided by NHSR; they are insured separately through Trust Insurance Brokers AON Limited.

16. Vehicle Accidents

16.1 These are claims for accidents involving vehicles owned by the Trust. Claims against the Vehicle Insurance are dealt with by the Transport Department.

17. Third Party Income Generation

17.1 This applies to Departments which receive sums for their services or products sold to establishments which are outside of the NHS. These would include Private Hospitals, Car Parks, Accommodation, Pathology Services and Catering etc. Cover is provided for Public Liability for injury or damage to third party property and Product Liability arising out of any claims in connection to products sold, serviced or supplied. All queries and claims regarding Third Party Income Generation insurance should be directed to the Claims & Legal Manager who will conduct the claim on behalf of the Trust.

18. Miscellaneous Claims

18.1 From time to time the Trust will receive a claim that is outside the main categories. The Claims and Legal Manager will conduct all such claims on behalf of the Trust, with advice from the Trust Secretary/Director of Strategy. If appropriate, the Trust's Solicitors will be appointed to act on behalf of the Trust.

19. Media Interest

19.1 At any stage a claim, potential claim, settlement hearing or inquest may generate media interest. If necessary, the Claims and Legal Manager will work closely with the Communications Department on all such claims.

20. Communication and Openness

20.1 It is important that the Trust meets its obligations to patients, relatives and the public by being open and honest if any harm is caused whilst receiving care or treatment, or if concerns are raised, formally or informally. To this end all staff

working within Mid Essex Hospital Services NHS Trust will be expected to adhere to the 'Being open and duty of candour policy'; register number 08063.

20.2 Being open means offering a sincere apology and explaining what happened to patients and/or their relatives/carers if any harm is caused during an episode of care or treatment, or following the identification of concerns. Saying sorry and expressing sympathy is not an admission of liability and is the right thing to do. However staff should not indicate to patients or their families that they believe the Trust was liable or that they consider that compensation is due to them (NHSR 2009).

20.3 Apologising and explaining when patients have experienced harm, or have expressed concerns about their care, can be difficult, but they must receive an apology as soon as possible after an incident. In doing so, the Trust can mitigate the distress and anxieties suffered by patients, and potentially reduce complaints and claims for compensation.

20.4 Staff should report an incident via the Datix Web incident reporting system as soon as possible after becoming aware of an incident or concern. Further information on the management of incidents is described in the Incident Policy.

20.5 Copies of health records are provided to claimants or their representatives in accordance with the Being Open policy, Access to Records Policy and legislative requirements.

21. Investigation and Implementing Change

21.1 A Claim may have been the subject of an earlier complaint, incident or serious untoward incident, in which case an internal investigation will already have been undertaken.
(Refer to Complaint Handling Policy; register number 04082 and Incident Policy; register number 09100)

21.2 During the claims management process the NHSR or appointed Panel solicitors may instruct the Claims and Legal Manager to investigate specific issues or to obtain specific information in relation to the claim.

21.3 During the claims investigation process, risk management issues and action points may be identified by the Claims & Legal Manager, the NHSR or by the appointed panel solicitors, or as a result of the root cause analysis investigation. Details of the claim, any expert witness reports and highlighted issues of concern will be sent to the Directorates via an action point on DatixWeb. The Directorate will be responsible for identifying learning from claims and producing action plans in response to any need for learning.

21.4 Identified issues and action plans will be included in reports to the Risk and Compliance Group, the Quality Committee in Common and in the case of non-clinical claims, to the Health and Safety Group.

21.5 Senior management team within the Directorates are responsible for ensuring that any recommended action points are completed within a timeframe identified at the Directorate Governance meetings, and for informing the Claims and Legal Manager of their completion.

21.6 Where organisational risks are identified as a result of a claim, this risk will be added to the appropriate Risk Assurance Framework and managed in accordance with the Risk Management Strategy and Policy.

22. Equality and Diversity

22.1 MEHT is committed to the provision of a service that is fair, accessible and meets the needs of all individuals. An Equality Impact Assessment has been undertaken and is included in Appendix 4.

23. Support for Staff Involved in Traumatic Claims

23.1 Any member of staff involved in a claim can obtain immediate advice and support from their line manager or the Claims and Legal Manager.

23.2 All staff involved in an incident which is the subject of a claim should have the opportunity to provide information and statements about the incident, and have feedback on the outcome of the investigation.

23.3 Guidance is available to staff required to provide a witness statement or appear as a witness in the Supporting Staff Involved in a Traumatic Incident, Complaint and Claim Policy.

23.4 Further support is available on an individual basis from the Head of Governance, Director of Nursing, Medical Director, the Occupational Health Department and Psychological Therapies Team. Refer to: Supporting Staff involved in a Traumatic Incident, Complaint or Claim, Register No 08070.

24. Staff Grievances

24.1 All staff have the right to be treated fairly and sensitively during the course of claims investigations. They may use the formal Trust Grievance Procedure should they feel the investigation process is unjust.

25. Grading of Claims

25.1 The Trust grades all claims to comply with NHSR/CNST requirements. Claims are graded according to the likelihood of success against the Trust. An estimate of the grading is made by the Claims & Litigation Team when the claim is received. There are four grades for Claims:

Low	There is a 25% or less likelihood of success by the Claimant.
Medium	The likelihood of success by the Claimant against the Trust is estimated at 50%
High	The likelihood of success by the Claimant against the Trust is estimated at 75%
Certain	The Claimant is likely to succeed. The likelihood of settlement is estimated at 94%. This grading is only applied once the Trust has admitted liability and is likely to settle the claim.

26. Claims Data Collection and Analysis

26.1 The Claims and Litigation Team maintains a Datix database to record claims received by the Trust. This system also contains details of logged incidents and complaints. The system serves as a direct link with incident reporting and complaints and enables claims data to be analysed and monitored.

From the database it is possible to link a claim to an incident or complaint already recorded and therefore note the action already taken in relation to investigation and remedial action, and avoid duplication of effort.

26.2 As previously noted (10.3), if a claim identifies an incident that has not been reported previously, the Claims and Legal Manager will retrospectively report the incident via Datix Web.

26.3 Claims are logged onto the Datix system. Finances connected with the handling of the claim, which includes an estimate of the potential damages and legal expenses reserved for the claim are recorded. Financial estimates are updated as received from NHSR or Panel solicitor.

26.4 The Claims and Legal Manager provides a quarterly report to the clinical directorates which includes information on new claims and inquests, and the number of potential claims.

26.5 The Claims and Legal Manager contributes to the Quality Committee in Common report as required. The report would normally include, from available data at the time:

- Number of on-going claims for clinical negligence, public liability and employers' liability;
- New claims received by division during the quarter;
- Categories (themes) of new clinical claims;
- Estimated liabilities for clinical claims;
- Claims for clinical negligence settled or closed for the quarter;
- Identified learning from clinical claims;
- Inquest activity.

26.6 Reports to the Health and Safety Group include non-clinical claims data analysis and learning outcomes in accordance with the reporting schedule provided by the Estates and Facilities Department.

26.7 In the above reports it is possible to compare the number of current active claims with previous quarters/financial years and also compare the predicted financial value of active claims with previous quarters/financial years.

27. Communication and Implementation

27.1 This policy will be launched in the Trust's staff newsletter.

27.2 The policy will be promoted in the Integrated Governance session at Corporate Induction and at any complaints training sessions carried out within the Trust.

27.3 The policy will be available to staff and the public on the Trust's intranet site and website.

28. Review

28.1 This policy will be reviewed on a three yearly basis or sooner in response to issues identified through monitoring or as a result other local or national initiatives.

29. References

NHSLA Circular (2009) Apologies and Explanations Available at: http://www.nhsla.com/NR/rdonlyres/00F14BA6-0621-4A23-B885-FA18326FF745/0/ApologiesandExplanationsMay1st2009.pdf.

NHSLA Clinical negligence reporting guidelines Version 1.01 April 2014 - available at: http://www.nhsla.com/Claims/Documents/Reporting%20Guidelines.pdf

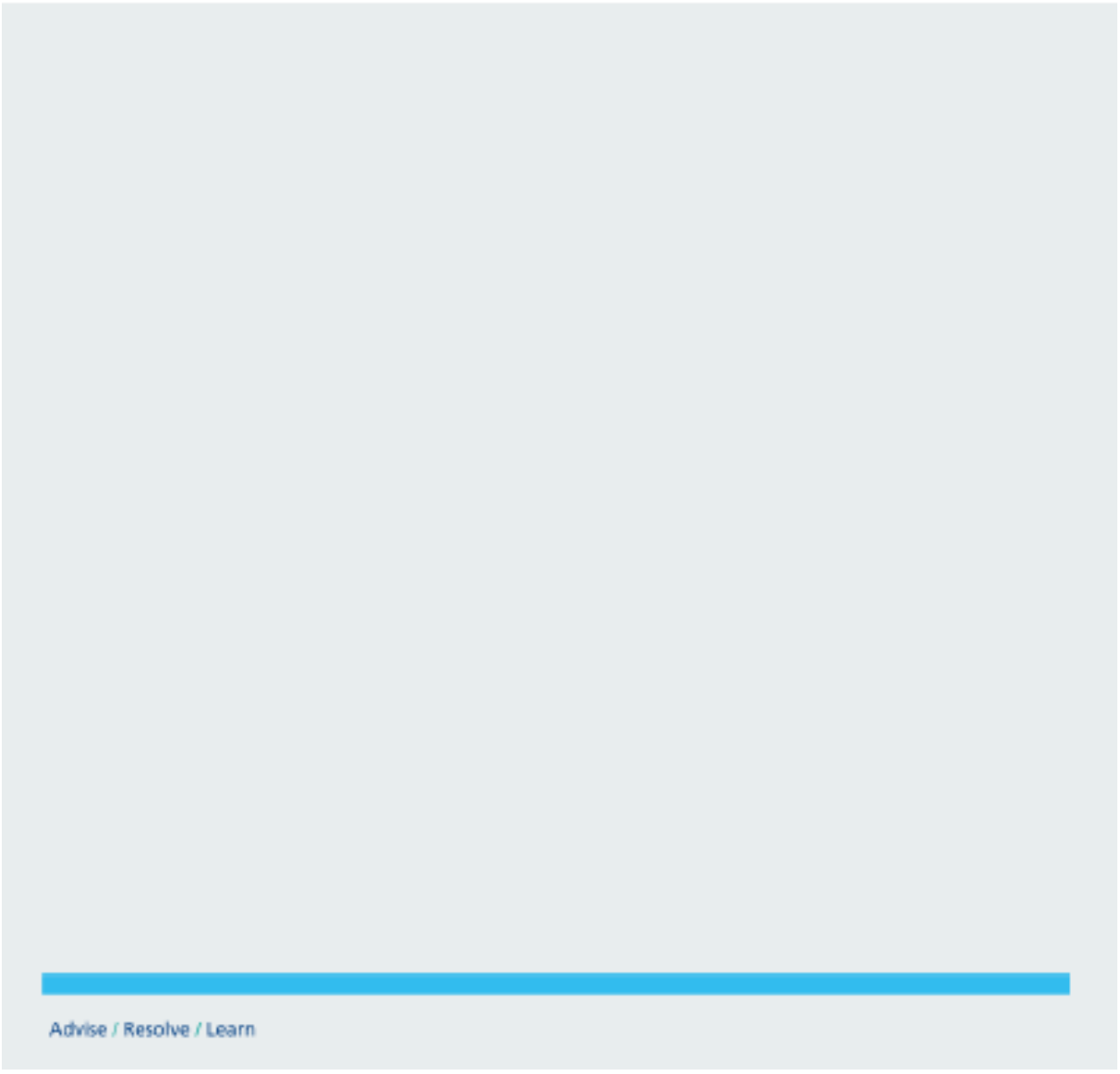
NHSLA CNST Membership Rules April 2001, revised 01 May 2014 – available at: http://www.nhsla.com/claims/Documents/CNST%20Rules.pdfNHSLA Liabilities to Third Parties (LTPS) Membership Rules – available at: http://www.nhsla.com/Claims/Documents/LTPS%20Scheme%20Rules.pdf

NHSLA Property Expenses Scheme (PES) Membership Rules – available at: http:/www.nhsla.com/Claims/Documents/PES%20Scheme%20Rules.pdf

Appendix 1

NHS Resolution

Reporting claims to NHS Resolution
June 2017



NHS Resolution

Contents

NHS Resolution

Introduction

This document sets out the requirements for when and how a member should report a new claim to NHS Resolution. It also provides other useful information such as: what to expect once a claim has been reported and common definitions. Members are required to have the necessary governance arrangements in place to be able to comply with this document [Sections 5.4 and 8.2 of the CNST Rules and Sections 5.4 and 9.1 of the LTPS rules].

We recommend that you always work from the electronic version of the Reporting Guidelines. This is because the Guidelines will evolve over time. For example, we will be providing more guidance notes to help support you and your staff. This means that accessing the electronic version will mean that you are working from the most recent version. The Version control section will provide an at-a-glance summary of the changes that have been made as the Guidelines evolve. We would welcome your thoughts/comments on how to improve this document. Please contact us via the Forum section of the Extranet to provide your feedback or e-mail feedback@resolution.nhs.uk

When a claim should be reported to NHS Resolution

It is important that you identify and, where appropriate, report potential claims to us as early as possible. This will allow us to consider what, if any, pro-active steps (e.g. an early admission, offer or an apology) could be taken so as to minimise associated claims and/or will allow us to commence appropriate investigations. The following table sets out the triggers for when a claim should be reported to NHS Resolution and the applicable timescales. NHS Resolution may also accept cases falling outside the reporting criteria at its discretion.

Please note that non-clinical claims received via the Portal do not need to be reported to us **save for** the two important exceptions detailed below.

No	Situation	Action Required	Timescale
1	**Serious Incident** where investigations suggest there have been **failings in the care provided;** **and** There is the possibility of a **large-value claim** (i.e. damages >£500,000)	Report to NHS Resolution irrespective of whether or a claim has been notified or a disclosure request received	As soon as possible but no later than 3 **months** from when you become aware of the matter
2	**Disclosure request (or some other indication that a claim is being considered – e.g. Limitation extension request) received;** **and** Internal investigation (e.g. complaint review or incident investigation) reveals **possibility of a claim with a significant litigation risk regardless of value.**	Report to NHS Resolution	As soon as possible but no later than 1 month from receipt of the disclosure request

NHS Resolution

3	**Letter of Claim** served; **and/or** **Part 36 offer** received; **and/or** **Proceedings** received.	Report to NHS Resolution using Claim Report Form	**Within 24 hours** of receipt with completed documentation to follow within 2 weeks
4	**Group Action** – i.e. any adverse issue which has the potential to involve a number of patients (e.g. failure of a screening service)	Report to NHS Resolution irrespective of whether or not claim(s) have been notified	As soon as possible but no later than 1 **month** from when you become aware of the matter
5	**Serial offender** claims – i.e. claims arising from the alleged negligence and/or serious professional misconduct of a staff member affecting a number of patients	Report to NHS Resolution irrespective of whether or not claim(s) have been notified	As soon as possible
6	**PORTAL ONLY: Defendant only – Claim Notification Form** received; **and** The covering letter confirms that **NHS Resolution have not been made aware of the claim via the Portal**	Report to NHS Resolution	Within **24 hours** of receipt
7	**PORTAL ONLY: Defendant only – Claim Notification Form** received from the Claimant solicitor; **and** **No NHS Resolution contact received within 3 working days**	Contact NHS Resolution to discuss whether or not to report the claim to the NHS Resolution.	No more than 3 **working days** after receipt of the notification form
8	**Notification of Inquest** received; **and** **Civil claim** is or is likely to be pursued **based on the subject matter of the inquest;** **and** **External representation at inquest is justified;** **and** You wish to apply to the NHS Resolution for **inquest funding.**	Report to NHS Resolution using a completed Inquest Funding Request form	No less than 1 month from the inquest hearing date

9	**Maternity Incident – Early Notification; all maternity incidents with incident date on or after 01.04.17 meeting the following criteria:** Eligible babies include those born at term (≥37 completed weeks of gestation), following labour, that had a severe brain injury diagnosed in the first seven days of life These are any babies that had one or more of the following: • Diagnosed with grade III hypoxic ischaemic encephalopathy (HIE) • Actively therapeutically cooled • Had all three of the following signs: decreased central tone; comatose; seizures of any kind.	Report to NHS Resolution using Early Notification Report Form	Within 30 days of incident

Please do not hesitate to contact your NHS Resolution Team Leader or Deputy for advice if you are unsure whether or not a potential claim should be reported to us.

All members should be familiar with the NHS Resolution guidance in 'Saying Sorry' which confirms that we will never withhold cover because an apology or explanation has been given. If you need further help or support from NHS Resolution in this area you should not hesitate to contact your NHS Resolution Team Leader or Deputy.

What documents should be sent to NHS Resolution when reporting a claim

Providing us with the correct documents/information at the outset will help us to process the claim without delays. This section will help you to understand the sort of information we require and the documentation we have prepared to help support you in this regard.

It is no longer mandatory to complete a clinical claim report form when reporting claims. The Claims Reporting wizard will capture key information and import this into CMS on approval.

The wizard will capture your file reference at the time of reporting and, if approved, will automatically update CMS;

Inquest funding request forms still need to be submitted and sent in addition to the Useful Documents Guide. There is now a bespoke route for inquest funding requests – i.e. funding can be requested without a letter of claim/proceedings or a disclosure request;

LTPS claim report forms still need to be submitted and sent in addition to the Useful Documents Guide

NHS Resolution

You have a free text section to add a covering message to the NHS Resolution approver. This should be used to highlight matters such as any agreed limitation extension(s), associated disciplinary issues, whether there are potential third party issues, listed inquest date etc.; and

We ask you to provide additional data on:

a) why the claim is being reported to NHS Resolution;
b) when you were first notified of the claimant's intention to pursue a claim;
c) where the incident took place;
d) whether there was an associated complaint and/or incident investigation;
e) the estimated valuation of the claim if successful; and
f) the probability of the claim succeeding.

The following supplementary documents will support you in providing the relevant information/documentation when reporting a claim:

1) Clinical Claim Useful Documents Guide
2) Clinical Witness Details Form
3) LTPS Claim Useful Documents Guide
4) LTPS Witness Details Form
5) LTPS Witness Statement template
6) LTPS Earnings Schedule for EL claims

The report forms and supplementary documents are located in the Extranet here: **Documents → Policies and Procedures → Reporting Guidelines → Key Documents**.

A Useful Documents Guide should always be completed when reporting a claim to us. However, we accept that, sometimes, it will not be possible to collate all of the relevant documentation/information whilst complying with the timescales detailed in the When should a claim be reported to NHS Resolution section. In such cases, please provide us with any outstanding information/updated documentation within 2 weeks of reporting the claim to us. We recommend that you complete all of our forms electronically so that, where necessary, data fields can be expanded to include all relevant information and the documents can be easily updated at a later date.

It is no longer compulsory to submit a completed Preliminary Analysis when reporting a new claim to NHS Resolution. This is because CMS, the claim report forms and supplementary documents will capture the initial information that we require to consider a claim.

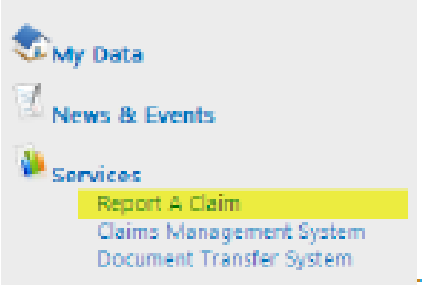
All key documentation should be sent to us as separate documentary enclosures. For example, an incident investigation should be sent to us in the following format:

1) Final investigation report and action plan;
2) Final witness comments upon which the investigation report was based; and
3) The remaining incident file containing draft reports, draft statements etc.

NHS Resolution

How to report a claim to NHS Resolution

Members are encouraged to report all clinical (including inquest funding requests) and non-clinical claims to NHS Resolution using the Claims Reporting Wizard. This can be accessed by following the "Report a Claim" link on the Extranet Home page:



The Claims Reporting Wizard will shortly be extended to enable reporting of most types of clinical and non-clinical claim to us. Please note that the latest guidance for using the Wizard will always be located on the Extranet here: Document Library → Guidance Notes.

Please note that PES claims should not be reported through the Wizard. Completed PES claim report forms should, instead, be sent to NHS Resolution at pes@resolution.nhs.uk.

What you can expect from us once a claim has been reported

- We will acknowledge receipt of claim correspondence and liaise with the Claimant or the Claimant's representatives on your behalf
- We will register the claim with the Compensation Recovery Unit and manage correspondence with them
- We will reply to all claims correspondence on your behalf (either ourselves or via our legal panel)
- We will seek your approval before making any liability admissions
- We will keep you updated at key stages throughout the claim
- We will provide you with support with press enquiries and MP involvement about the claim on request

What we expect from you once a claim has been reported

- We will expect you to preserve the necessary notes, records and other key documentation
- We will expect you to respond promptly to our requests for instructions
- We will expect you to keep your members of staff updated as to the progress of a particular claim and its outcome

- We will expect you to help ensure that any learning from this claim is considered by the relevant internal department
- We will expect you to contact us to discuss any potential issues as and when they arise

Supplementary Guidance

We hope that the following guidance notes will help you to comply with these Guidelines:

1) Limitation of actions in clinical negligence: a basic guide (Extranet location: Documents → Document Library → Guidance Notes)
2) Benefits of Mediation (Extranet location: Documents → Document Library → Guidance Notes)
3) Guidance on reporting requests for inquest funding - April 2014 (Extranet location: Documents → Document Library → Inquest Funding under CNST)

Please do not hesitate to contact your NHS Resolution Team Leader or Deputy with any suggested topics for further guidance notes or tips.

Key definitions

Terminology	Definition
Notification date	The date you were first made aware of the likelihood that a claim was or was likely to be pursued – e.g. receipt of a request for disclosure of medical records. For Early Notification Incidents this will be the same as the Incident Date.
Incident date	Date of the incident noting that the earliest date should be provided where multiple allegations are involved
Description of incident	Brief summary of the key facts involved in the claim. This should not include any information that could identify the patient or any member of staff or contain any specific dates/location details

Queries

Please do not hesitate to contact us should you wish to discuss the contents of this document. Queries should be directed to your designated Team Leader in the first instance or any of the Heads of Claims.

NHS Resolution

Version control

Date of Change	Version	Brief summary of changes
April 2014	1.01	• Simplification of reporting guidelines for both clinical and non-clinical schemes with merger into one document • Dispensed with the need for Preliminary Analysis to be submitted with new claims • Introduction of Claim Report Forms for clinical and non-clinical claims and updated inquest funding request form • Introduction of Useful Document checklists to be used when reporting claims to NHS Resolution • Introduction of Witness Details Forms • Introduction of LTPS specific documents such as the Earnings Schedule and witness statement templates
May 2017	1.02	• Removal requirement for claim report forms when reporting clinical claims • Change in inquest funding notifications • Addition of Early Notification Reporting

Appendix 2

PREPARING A REPORT FOR A LEGAL CLAIM or INQUEST

1. State your full name, position and ward/department.
2. Name the patient and give patient's date of birth.
3. Always state at the beginning of your report the purpose for which it is intended: i.e. "I have been requested to provide this report to assist in a legal claim/assist the Coroner/assist in a complaint investigation".
4. Always use the medical records for reference.
5. Relate your response to the points (and/or numbered paragraphs/bullet points) in the solicitor's letter or the questions posed by Ombudsman, Coroner, complainant etc., as appropriate.
6. List the facts as you understand them to be, or which you know to have taken place – i.e. documented observations – in chronological order. If you cannot recall the episode/events in question, you should say so.
7. Be consistent: Use 24 hour clock. Spell the day/date fully e.g. Monday, 21 May 2009.
8. Only refer to colleagues by name if you are sure of their involvement, in which case you should also provide their professional status.
9. Avoid giving unqualified opinions unless there is a clinical professional opinion which you are able to substantiate or you are specifically requested to give an opinion.
10. Avoid the use of abbreviations and jargon – if used, include an explanation.
11. Do not use sarcasm, assumptions or appear defensive.
12. Statements/reports should be typed if possible; if this is not possible use a black pen on A4 trust headed paper (and write clearly).
13. Number each page when completed e.g. 1 of 4; 2 of 4, etc and number paragraphs for ease of reference.
14. Date and sign at the end.
15. Retain a copy for your own reference.
16. Check and discuss the report with an appropriate colleague/manager, or with Claims and Legal Department.

Appendix 3

GUIDE FOR GIVING EVIDENCE AT CORONERS COURT

Preparation

Giving evidence at an Inquest can, on occasions be a worrying experience, however, careful preparation can help to improve matters.

- It can be helpful to attend an Inquest beforehand to familiarise yourself with the courtroom and the process.
- Seek assistance and support from your line manager and discuss how you will feel on returning to your role if any criticism is made in court.

- Read your statement again so that you are fully conversant with the contents and review any relevant medical records thoroughly. Think about the evidence you will be giving; what happened and what you are going to say.

- Dress smartly and soberly to show respect to the Coroner.

Giving Evidence

- Speak up and speak slowly. The Coroner needs to make notes.

- Listen to the question and only answer the question that has been asked.

- If unsure about the question, ask for it to be repeated.

- If it is felt that additional information that has not been requested is required, answer the question first and then give the additional information.

- If there is a pause, do not feel the need to fill the silence. Once the question has been answered, keep quiet.

- If it feels comfortable, look at the jury or the Coroner when answering, or at the family. Do whatever feels the most comfortable.

- Say if the question is not understood, or has not been heard properly. Do not be tempted to answer what it is thought may have been said. Understand that the questions are being asked by professionals, so do not attempt to give ‘clever’ answers.

- Be honest; give a true account. Do not be bullied into saying anything you do not believe. The Coroner’s Court is specifically about ascertaining the truth

- Show that you are a caring individual. Do not present a casual, arrogant or self-centred impression to the Coroner or the jury. Do not be defensive or make dismissive gestures. Watch your body language.

- If there is invalid criticism of your role, defend yourself by setting out the facts, not by getting aggressive. Be open, honest and caring.

- Witnesses are entitled to sit and listen to all the evidence given both before and after their own. It will help to listen and learn from the way others give their evidence.

Appendix 4: Preliminary Equality Analysis

This assessment relates to: Claims Handling Policy and Procedure/04081

A change in a service to patients		A change to an existing policy	**X**	A change to the way staff work	
A new policy		Something else (please give details)			

Questions	Answers
1. What are you proposing to change?	Full Review
2. Why are you making this change? (What will the change achieve?)	3 year review
3. Who benefits from this change and how?	Patients & Clinicians
4. **Is anyone likely to suffer any negative impact as a result of this change?** If **no**, please record reasons here and sign and date this assessment. If **yes**, please complete a full EIA.	No
5. a) Will you be undertaking any consultation as part of this change? **b) If so, with whom?**	Yes Refer to pages 1 & 2 consultation

Preliminary analysis completed by:

Name	Julie Shephard	**Job Title**	Claims and Litigation Manager	**Date**	July 2019