



SOUTH CENTRAL AMBULANCE SERVICE NHS FOUNDATION TRUST

CORPORATE POLICY AND PROCEDURE (CPP No. 14)

CLAIMS MANAGEMENT

DOCUMENT INFORMATION	
Author:	Legal Services Manager and Assistant Director of Quality
Ratifying committee/group:	Patient Safety Group
Date of ratification:	6 th January 2017
Date of Issue:	6 th January 2017
Review due by:	6 th January 2019
Version:	1.2



Contents (this is an automatic table, use the headings throughout the document and then **right** click on the table and select update field, then update entire table)

1.	Introduction	3
2.	Scope.....	3
3.	Aim.....	3
4.	Roles and Responsibilities	3
5.	Definitions	5
6.	Abbreviations	6
7.	Main body.	6
8.	Equality and Diversity.....	9
9.	.Monitoring	9
10.	Consultation and Review.....	10
11.	Implementation (including raising awareness).....	10
12.	References	10
13.	Associated documentation	11
14.	Appendix 1: Review Table.....	12
15.	Appendix 2: Responsibility Matrix – Policies, Procedures and Strategies	13
16.	Appendix 3: Equality Impact Assessment Form Section One – Screening.....	15
17.	Appendix 4: Equality Impact Assessment Form Section Two – Full Assessment.....	20
18.	Appendix 5: Ratification Checklist	24



1. Introduction

- 1.1 The Trust recognises its responsibility to minimise the exposure of the Trust to legal claims against the organisation, or its staff. This is in order to reduce the amount of contribution the Trust is expected to pay to the NHS Litigation Authority on a yearly basis. This policy relates to employers liability, public liability, clinical negligence and property expenses claims made against the Trust
- 1.2 This policy reflects current best practice and guidance issued by the Department of Health and the NHS Litigation Authority.
- 1.3 This policy applies to all Trust employees and should be considered in conjunction with the Trust Risk Management Strategy, Health and Safety Policy and Adverse Incident Reporting Policy

2. Scope

- 2.1 This policy deals with the handling of all claims with the exception of motor claims. These are dealt with separately under different procedures.
- 2.2 This policy also covers any incident that carries significant risk of litigation for the Trust i.e. complaints leading to claims, publicity or media sensitive cases, mis- diagnosis of life threatening illness or requests for disclosure of medical records with a view to investigating a potential claim against the Trust.

3. Aim

- 3.1 The key objectives of this policy are:
 - 3.1.1 To provide a consistent approach to the handling of Clinical and Non-Clinical Claims
 - 3.1.2 To ensure that the Trust meets its legal obligations
 - 3.1.3 To set out the responsibilities of staff in relation to claims
 - 3.1.4 To ensure that the Trust delivers its strategic objectives
 - 3.1.5 To ensure the appropriate risk management systems are in place and that any losses are minimised
 - 3.1.6 To ensure a risk management approach is applied to claim/litigation prevention - this includes investigation learning outcomes and root cause analysis
 - 3.1.7 To ensure significant risks arising from the claims process are included on the Trust risk register
 - 3.1.8 There are effective systems of communication in place so that Directors and Senior managers are kept informed about all claims which may have implications for the Trust.

4. Roles and Responsibilities

- 4.1 The **Chief Executive** has overall accountability for the Trust's Governance arrangements and for ensuring that all reasonable measures are in place to minimise the risk arising from legal claims.



- 4.2 The **Director of Patient Care** is a member of the Quality and Safety Committee and is the Director with overall responsibility for Risk Management within the Trust. The management of claims falls within this responsibility. The Assistant Director of Quality shall maintain appropriate review procedures for claims and risk management.
- 4.3 The **Assistant Director of Quality** will be responsible to the Director of Patient Care for the development of effective Trust wide policies and procedures. Specific responsibilities will include monitoring all areas of risk management performance, maintaining and developing the Trusts Risk Register and risk database. Provide reports to the Quality and Safety Committee and Operational Health, Safety and Risk Group on incident reporting, Serious Incidents, claims and complaints identifying trends and actions. Be the point of reference within the Trust for all internal and external contacts in relation to all matters relating to Risk Management, claims, PALs and complaints.
- 4.4 The **Company Secretary** can be accessed as a source of advice for significant legal claims, where reputation or financial risk is likely to be high, and will ensure that the Board of Directors work programme includes a review of legal claims at appropriate intervals.
- 4.5 The **Legal Services Manager** is responsible for:
- 4.5.1 The day to day management of claims in accordance with this policy
 - 4.5.2 The production of a preliminary analysis into the claim
 - 4.5.3 The liaison with the NHSLA and appointed panel solicitors
 - 4.5.4 Reporting new claims to the Director of Patient Care
 - 4.5.5 Maintenance and regular update of the Risk Reporting system
 - 4.5.6 Providing disclosure documents to the NHSLA and Claimant Solicitors
- 4.6 The **Risk Managers** are responsible for assisting the Legal Services Manager in collating all documentation held by the Trust in order to investigate the claim. This may include:
- 4.6.1 Statements from those involved Training records
 - 4.6.2 Documentary Evidence e.g. Patient Report form, Incident log from Emergency Operations Centre
 - 4.6.3 Photographs/plans Voice tapes
 - 4.6.4 Incident report forms/ RIDDOR reports
- 4.7 The **Trust Board** will receive information relating to current claims and recommendations forwarded by the NHSLA following the closure of a case. The Quality and Safety Committee will also receive a report on a quarterly basis detailing those current claims and the progress on the actions plans for the NHSLA or Trust identified recommendations. The Quality and Safety Committee reports directly to the Trust Board.
- 4.8 The **Company Secretary** and **Communications Manager** must be notified of any adverse incidents which may lead to a claim i.e. sudden death, serious untoward incident or complaint.



- 4.9 **All staff** have a responsibility to forward any correspondence relating to a claim or request for disclosure in a possible clinical negligence claim to the Legal Services Manager to ensure the appropriate action is taken. All staff are also required to assist with any investigation into a claim as fully as possible i.e. giving statements or interviews. Trust Board

5. Definitions

- 5.1 **Claim:** An allegation of negligence and/or demand for monetary compensation made following an adverse incident which carries significant risk of litigation for the Trust
- 5.2 **Claimant:** Any employee, patient, patient's representative or member of the public who alleges negligence by the Trust and/or demands compensation for alleged injuries/losses arising from alleged negligent act(s) or omission(s)
- 5.3 **NHSLA:** National Health Service Litigation Authority; the body which indemnifies the Trust against various risks including employer's liability, public liability, clinical negligence and property expenses.
- 5.4 **CNST - Clinical Negligence Scheme for Trusts:** The scheme operated by the NHSLA which indemnifies the Trust against clinical negligence claims.
- 5.5 **LTPS - Liability to Third Parties Scheme for Trusts:** The scheme operated by the NHSLA, which indemnifies the Trust against claims from third parties. This covers employees, patients, patient's relatives, members of the public.
- 5.6 **PES - Property Expenses Scheme:** PES provides cover for "first party" losses such as theft or damage to property.
- 5.7 **RPST - Risk Pooling Scheme for Trusts:** The collective scheme covering both PES and LTPS.



6. Abbreviations

- 6.1 CNST - Clinical Negligence Scheme for Trusts
- 6.2 LTPS - Liability to Third Parties Scheme for Trusts
- 6.3 PES - Property Expenses Scheme
- 6.4 RPST - Risk Pooling Scheme for Trusts
- 6.5 CCGs - Clinical Commissioning Groups
- 6.6 NHS – National Health Service
- 6.7 HSE - Health and Safety Executive's
- 6.8 HCPC - Health and Care Professions Council
- 6.9 MHRA - Medicines and Healthcare products Regulatory Agency
- 6.10 NHSLA – National Health Service Litigation Authority
- 6.11 CFSMS - Counter Fraud and Security Management Service

7. Main body.

- 7.1 Claims Management Procedure - RPST, CNST and PES
 - 7.1.1 The Legal Services Manager is the point of contact for all Claims.
 - 7.1.2 All letters of intended claim received by the Trust MUST be forwarded immediately to the Legal Services Manager.
 - 7.1.3 On receipt of notification of intended claim the following action will be taken:
 - 7.1.4 The Legal Services Manager will maintain a Claims investigation and correspondence file for each individual claim and will maintain an up to date database of claims via the Risk Reporting system
 - 7.1.5 As soon as a formal letter of claim is received or proceedings have been served upon the Trust, the Legal Services Manager will report this to the NHSLA in accordance with the rules of the relevant scheme.
 - 7.1.6 The Legal Services Manager will input the new claim into the Legal Services folder on the 'P' Drive.
 - 7.1.7 The Legal Services Manager will make contact with all staff involved in the original incident, together with their respective line managers.
 - 7.1.8 The NHSLA shall after due consultation with the Trust: Appoint a case manager where necessary
 - 7.1.9 Be responsible for desktop conduct of the claim
 - 7.1.10 Correspondence with Claimant solicitors
 - 7.1.11 Negotiate out of court settlements
 - 7.1.12 Consider the use of Alternative Dispute Resolution (ADR)



- 7.1.13 Where a claim is concluded the staff involved will be informed of the outcome, if necessary in a de-brief meeting. (See Supporting Staff Involved in Adverse Incidents, Claims and Complaints and Section 8 of the Adverse Incident Reporting and Investigating Policy).
- 7.2 Timescales as prescribed by CNST
 - 7.2.1 Requests for disclosure of medical records to be processed within 40 days
 - 7.2.2 Report relevant cases to the NHSLA within 2 months of a request for records, or sooner if the event is serious or complicated
 - 7.2.3 Acknowledge all claims within 14 days of receipt
 - 7.2.4 Detailed response due within 3 months
 - 7.2.5 All legal proceedings are to be notified to the Company Secretary immediately
 - 7.2.6 Acknowledge letter of Claim within 21 days
 - 7.2.7 3 months in which to carry out investigation and inform the Claimant of Trust decision on liability
 - 7.2.8 If liability is denied should provide a reasoned argument to the Claimant within 3 months
 - 7.2.9 All managers requested to provide information to assist with the disclosure and liability response should do so within 10 days of receipt of such a request

NOTE: The NHSLA will not accept a claim until a claim form and relevant disclosure documents have been received. Reference should be made to the current NHSLA Claims Procedures available at www.nhsla.com



7.3 Documentation

7.3.1 It is important to note that unless a document is produced specifically within litigation it may be disclosable in law. Managers and other staff who may be involved in an investigation or have to compile information should ensure they only produce factual documents within their own knowledge and experience. Personal opinions should not be expressed.

7.4 Financial Management

7.4.1 Responsibility for the financial management of claims settled by the Trust (e.g. small damage to property claims which fall below the excess level) lies with the Director of Patient Care.

7.4.2 Responsibility for the financial management of all claims falling within the NHSLA schemes and reported to the NHSLA lies with the NHSLA.

7.4.3 The finance department and Legal Services Manager are responsible for receiving Invoices from Claimant and Panel solicitors and the NHSLA and ensuring they are paid appropriately

7.5 Excesses

Scheme	Excess Applicable:
Liability to Third Parties Scheme	£10,000 (Emp. Liab.) £3,000 (Public Liab.)
Clinical Negligence Scheme	Nil
Property Expenses Scheme	£20,000

7.6 Communication with Stakeholders

7.6.1 It is important that patients, their representatives, staff and other relevant stakeholders are aware of how to access the claims process should they require to do so. It is also important that all other healthcare providers are aware of how the Trust deals with claims. To this end the Claims Policy will be made available on the Trust Website.

7.6.2 The Trust will also communicate with relevant stakeholders, where appropriate, when dealing with organisations involved with a claim affecting the Trust

7.6.3 To this end, the Trust will communicate with the following:

- Other healthcare providers
- Commissioners
- Solicitors
- Coroners / Police
- CCG's
- NHS England
- HSE
- HCPC
- MHRA



- Third parties
- Trust solicitors
- NHSLA
- CFSMS
- Third parties
(This list is not definitive)

8. Equality and Diversity

- 8.1 The Trust is committed to promoting positive measures that eliminate all forms of unlawful or unfair discrimination on the grounds of age, marital status, disability, race, nationality, gender, religion, sexual orientation, gender reassignment, ethnic or national origin, beliefs, domestic circumstances, social and employment status, political affiliation or trade union membership, HIV status or any other basis not justified by law or relevant to the requirements of the post.
- 8.2 By committing to a policy encouraging equality of opportunity and diversity, the Trust values differences between members of the community and within its existing workforce, and actively seeks to benefit from their differing skills, knowledge, and experiences in order to provide an exemplary healthcare service. The Trust is committed to promoting equality and diversity best practice both within the workforce and in any other area where it has influence.
- 8.3 The Trust will therefore take every possible step to ensure that this procedure is applied fairly to all employees regardless of race, ethnic or national origin, colour or nationality; gender (including marital status); age; disability; sexual orientation; religion or belief; length of service, whether full or part-time or employed under a permanent or a fixed-term contract or any other irrelevant factor.
- 8.4 Where there are barriers to understanding e.g. an employee has difficulty in reading or writing or where English is not their first language, additional support will be put in place wherever necessary to ensure that the process to be followed is understood and that the employee is not disadvantaged at any stage in the procedure. Further information on the support available can be sought from the Human Resource Department

9. Monitoring

- 9.1 The effectiveness of this policy will be monitored through the following

Standard/ process/ issue	Monitoring and audit			
	Method	By	Committee	Frequency
Compliance with pre action protocol	Audit of <ul style="list-style-type: none"> • The timeliness of acknowledgements of claims (within 21 Days) • The timeliness of the disclosure of 	Legal Services Manager / Audit	Patient Safert Group	Annually



	<p>information in a potential claim (within 40 days)</p> <ul style="list-style-type: none"> • Responses to requests to Managers to assist/provide information (10 days) 			
Ensure that claims are processed in a timely manner	How quickly a claim is concluded	Legal Services Manager	Patient Safert Group	Three yearly (average life of claim)

- 9.2 This monitoring will be evidenced by the Legal Services Manager generating reports from the legal services folder which will be sent to the Quality and Safety Committee and the Board on a regular basis.
- 9.3 This Policy will be reviewed on a biennial basis and in line with recommendations and publications from the NHSLA and Department of Health. The Assistant Director of Quality will be responsible for this review.
- 9.4 The Legal Services Manager shall produce a quarterly report for the Trust Board, outlining significant claims and their progress and likely outcome. The Director of Patient Care OR Assistant Director of Quality shall also ensure that major/high risks are placed on the Trust Risk Register and reviewed by the Trust Board on a quarterly basis. This will enable the Trust to identify any trends and ensure learning by way of an action plan.

10. Consultation and Review

Stakeholder or Group Title	Consultation Period (From-to)	Comments received (Yes/No)
Director of Patient Care	2212.2016 – 04.01.2017	Yes
Assistant Director of Quality	2212.2016 – 04.01.2017	Yes

11. Implementation (including raising awareness)

- 11.1 This Policy will be made available to all staff on the Trust intranet.

12. References

N/A



13. Associated documentation

- 13.1 Risk Management Strategy
- 13.2 Adverse Incident Reporting and Investigating Policy Health and Safety Policy and all the relevant Appendices Patient and Public Experience Policy
- 13.3 SIRI Policy
- 13.4 Information Governance Policy



14. Appendix 1: Review Table

Version	Reason for change	Overview of change
V1.1	Brief review	Job Title Changes
V1.2	New template	Applied to template and answers to new sections within template



15. Appendix 2: Responsibility Matrix – Policies, Procedures and Strategies

Policy Group	Lead Director / Officer	Working Group	Committee	Board Ratification
Strategies	As appropriate	As appropriate	As appropriate	Required
Standing Orders & Standing Financial Instructions	Chief Executive + Director of Finance	Not applicable	Audit Committee	Required
Corporate Policies	Chief Executive + Director of Patient Care	As appropriate	Quality and Safety Committee	Required/ Committee decision
Health and Safety Policies and Procedures	Director of Patient Care	Strategic Health, Safety and Risk Group	Quality and Safety Committee	Health and Safety Policy – Required H&S Appendices – Committee decision
Control of Infection Policy and Procedures	Director of Patient Care	Clinical Review Group	Quality and Safety Committee	Required
Personnel Policies and Procedures	HR Director	Staff Consultation Group	Quality and Safety Committee	Required for new policies. Committee decision for revisions
Financial Policies and Procedures.	Director of Finance	Not applicable	Audit Committee	Required for new Policies. Committee decision for procedural changes.
Operational Policies and Procedures	Director Operations	As appropriate or through Team Meeting	Quality and Safety Committee	Committee decision
Information and IT Policies and Procedures	Director of IT	Information Governance Steering Group	Quality and Safety Committee	Committee decision
Emergency Operational Centre Policies and Procedures	Director Operations	As appropriate	Quality and Safety Committee	Committee decision



Clinical Policies and Procedures	Director of Clinical Services	Clinical Review Group	Quality and Safety Committee	Committee decision
----------------------------------	-------------------------------	-----------------------	------------------------------	--------------------



16. Appendix 3: Equality Impact Assessment Form Section One – Screening

Name of Function, Policy or Strategy: Claims Management Policy

.....

Officer completing assessment: Legal Services Manager

Telephone.....07795062042.....

1.	What is the main purpose of the strategy, function or policy?
	To ensure the consistent and appropriate management of litigation claims that are being brought against the Trust
2.	List the main activities of the function or policy? (for strategies list the main policy areas)
	To ensure that each member of staff understands the expectations that the Trust holds on their involvement in the investigation of litigation claims
3.	Who will be the main beneficiaries of the strategy/function/policy?
	All staff and patients will benefit from effective claims management procedures
1.	Use the table overleaf to indicate the following:-
	<ul style="list-style-type: none"> a. Where do you think that the strategy/function/policy could have an adverse impact on any equality group, i.e. it could disadvantage them? b. Where do you think that there could be a positive impact on any of the groups or contribute to promoting equality, equal opportunities or improving relations within equality target groups?



		Positive Impact – it could benefit	Negative Impact – it could disadvantage	Reasons
GENDER	Women	Yes	No	Effective claims management has a positive effect on Trust resources, patient experience and the quality of clinical care through the learning that can be gained. There are no restrictions on the characteristics or groups who can benefit from this
	Men	Yes	No	Please see above
RACE	Asian or Asian British People	Yes	No	Please see above
	Black or Black British People	Yes	No	Please see above
	Chinese people and other people	Yes	No	Please see above
	People of Mixed Race	Yes	No	Please see above
	White people (including Irish people)	Yes	No	Please see above
	Disabled People	Yes	No	Please see above
	Lesbians, gay men and bisexuals	Yes	No	Please see above
	Trans people	Yes	No	Please see above
AGE	Older People (60+)	Yes	No	Please see above
	Younger People (17 to 25) and children	Yes	No	Please see above



	Faith Groups	Yes	No	Please see above
	Equal Opportunities and/or improved relations	Yes	No	Please see above



Notes:

Faith groups cover a wide range of groupings, the most common of which are Muslims, Buddhists, Jews, Christians, Sikhs and Hindus. Consider faith categories individually and collectively when considering positive and negative impacts.

The categories used in the race section refer to those used in the 2001 Census. Consideration should be given to the specific communities within the broad categories such as Bangladeshi people and to the needs of other communities that do not appear as separate categories in the Census, for example, Polish.

5. If you have indicated that there is a negative impact, is that impact:		
	Yes	No
Legal (it is not discriminatory under anti-discriminatory law)	<input type="checkbox"/>	<input type="checkbox"/>
Intended	<input type="checkbox"/>	<input type="checkbox"/>
Level of Impact	High	Low
	<input type="checkbox"/>	<input type="checkbox"/>
If the negative impact is possibly discriminatory and not intended and/or of high impact then please complete a thorough assessment after completing the rest of this form.		
6(a). Could you minimise or remove any negative impact that is of low significance? Explain how below:		
6(b). Could you improve the strategy, function or policy positive impact? Explain how below:		
7. If there is no evidence that the strategy, function or policy promotes equality, equal opportunities or improves relations – could it be adopted so it does? How		



[Empty box for signature and date]

Please sign and date this form, keep one copy and send one copy to the Trust's Equality Lead.

Signed:.....*JM Saunders*.....

Name:.....Jennifer Saunders.....

Date:.....6th January 2017.....



17. Appendix 4: Equality Impact Assessment Form Section Two – Full Assessment

Name of Function, Policy or Strategy:...Claims Management Policy.....

.....

Officer completing assessment:...Legal Services Manager.....

Telephone.....07795 062042.....

Part A

Looking back at section one of the EQIA, in what areas are there concerns that the strategy, policy or project could have a negative impact? N/A

Gender

Race

Disability

Sexuality/Transgender

Age

Faith

2. Summarise the likely negative impacts:-

.....N/A.....

.....

.....

.....

.....

3. Using the table below, give a summary of what previous or planned consultation on this topic, policy, function or strategy has or will take place with groups or individuals from the equality target groups and what has this consultation noted about the likely negative impact? N/A



Equality Target Groups	Summary of consultation planned or taken place
Gender	N/A
Race	N/A
Disability	N/A
Sexuality/Transexuality	N/A
Older People	N/A
Younger People	N/A
Faith	N/A

4. What consultation has taken place or is planned with Trust staff including staff that have or will have direct experience of implementing the strategy, policy or function?

N/A

.....
.....
.....

5. Check that any research, reports, studies concerning the equality target groups and the likely impact have been used to plan the project and guide or indicate what research you intend to carry out:-

Equality Target Groups	Title/type of/details of reserach/report
Gender	N/A



Race	N/A
Disability	N/A
Sexuality/Transexuality	N/A
Older People	N/A
Younger People	N/A
Faith	N/A

6. If there are gaps in your previous or planned consultation and research, are there any experts/relevant groups that can be contacted to get further views or evidence on the issues? N/A

Yes (Please list them and explain how you will obtain their views)

.....

.....

No

6

Part B

Complete this section when consultation and research has been carried out

7a. As a result of this assessment and available evidence collected, including consultation, state whether there will be any changes made/planned to the policy, strategy or function.

N/A



7b. As a result of this assessment and available evidence is it important that the Trust commission specific research on this issue or carry out monitoring/data collection?

(You may want to add this information directly on to the action plan at the end of this assessment form)

..... N/A.....
.....
.....
.....
.....

8. Will the changes planned ensure that negative impact is: N/A

Legal?
(not discriminatory, under anti-discriminatory legislation)

Intended?

Low impact?

9a. Have you set up a monitoring/evaluation/review process to check the successful implementation of the strategy, function or policy?

N/A

Yes No

9b. How will this monitoring/evaluation further assess the impact on the equality target groups/ensure that the strategy/policy/function is non-discriminatory?

N/A

Details:

.....
.....

Please complete the action plan overleaf, sign the EQIA, retain a copy and send a copy of the full EQIA and Action Plan to the Trust's Equality Lead.

Signed:..... *JM Saunders*

Name: Jennifer Saunders..... Date: ...6th January 2017.....



18. Appendix 5: Ratification Checklist

Section 1: To be completed by Author prior to submission for ratification

Policy Title	Claims Management
Author's Name and Job Title	Jennifer Saunders. Legal Services Manager
Review Deadline	4 th Jaunary 2017
Consultation From – To (dates)	22 nd December 2016
Comments Received? (Y/N)	4 th January 2017
All Comments Incorporated? (Y/N)	Y
If No, please list comments not included along with reasons	
Equality Impact Assessment completed (date)	6 th Jaunary 2017
Name of Accountable Group	Patient Safety Group
Date of Submission for Ratification	6 th January 2017

Section 2: To be completed by Accountable Group

Template Policy Used (Y/N)	Y
All Sections Completed (Y/N)	Y
Monitoring Section Completed (Y/N)	Y
Date of Ratification	6 th January 2017
Date Policy is Active	6 th January 2017
Date Next Review Due	6 th January 2018
Signature of Accountable Group Chair (or Deputy)	
Name of Accountable Group Chair (or Deputy)	