# Claims Management Policy

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<th>Policy Number</th>
<th>Supersedes</th>
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<td>Improving Experience Committee</td>
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**Brief Summary of Document:** Defines the Health Board policy, roles and responsibilities in the handling of claims for clinical negligence, personal injury and property claims.

**Scope:** This policy applies to those members of staff that are employed by the Hywel Dda University Health Board, both permanent and non-permanent, and for whom the Health Board have legal responsibility including contractors and those who undertake work on behalf of contractors.

**To be read in conjunction with:** All Wales Putting Things Right Guidance, 514 Management and Investigation of Incidents Policy and Guidance, 156 Strategy & Policy

**Owning Committee:** Improving Experience Sub Committee

**Executive Director:** Mandy Rayani

**Job Title:** Director of Nursing, Quality and Patient Experience
## Reviews and updates

<table>
<thead>
<tr>
<th>Version no:</th>
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<tr>
<td>1</td>
<td>New policy</td>
<td>16.11.2009</td>
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<tr>
<td>2</td>
<td>Revised</td>
<td>December 2011</td>
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<td>3</td>
<td>Full review</td>
<td>24/01/2019</td>
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## Glossary of terms

<table>
<thead>
<tr>
<th>Term</th>
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<tr>
<td>Clinical/Medical Negligence</td>
<td>“A breach of duty of care by members of the health care professions employed by NHS bodies or by others consequent on decisions or judgments made by members of those professions acting in their professional capacity in the course of employment, and which are admitted as negligent by the employer or are determined as such through the legal process.”</td>
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<tr>
<td>Personal Injury</td>
<td>“Any disease or impairment of a person’s physical or mental condition.”</td>
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<tr>
<td>National Health Service Concerns, Complaints and Redress Arrangements (Wales) 2011</td>
<td>This policy relates only to claims for compensation. It should be noted that there is a distinction between the process for managing a complaint and a claim for compensation. Complaints (Concerns) are managed in accordance with the National Health Service Concerns, Complaints and Redress Arrangements (Wales) 2011, which place a duty on the Health Board to consider redress for patients who have suffered harm as a result of shortcomings in the standard of care provided by the Health Board.</td>
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<tr>
<td>Redress</td>
<td>An apology, remedial treatment and/or financial compensation</td>
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<tr>
<td>Public Service Ombudsman</td>
<td>Can instruct Health Boards to make payments following his investigation into concerns and these will be authorised in the same was as payment for financial redress</td>
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<tr>
<td>NWSSP Legal and Risk</td>
<td>NHS Wales Shared Services Partnership, Legal and Risk Services provide legal advice and representation to Health Bodies in Wales.</td>
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## Keywords

Claims, management, clinical negligence, redress, personal injury, property
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Claims Management Policy

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1. Introduction
The Health Board has a legal duty of care towards its patients/clients/service users, members of the general public and its staff.

In accordance with the Being Open/Duty of Candour Policy and the Putting Things Right Arrangements, the Health Board will, in the majority of cases, have investigated any concerns and clinical incidents at the earliest opportunity and involved the patient or their next of kin/representative in the investigation process, providing the necessary support throughout. Where appropriate, any failings in care, resulting in a qualifying liability will have been resolved under the NHS Redress Scheme and access to legal advice provided.

Where cases are not suitable for the NHS Redress scheme or where patients do not wish to access this, these cases will be referred to the formal claims process.

People who feel they have suffered harm from a breach of this duty are able to make a claim for compensation against the Health Board and are usually supported in this process by a legal representative who will liaise on the patient’s behalf with the Health Board.

For a claim to be successful, a claimant must prove:
- that he/she was owed a duty of care;
- that the duty was breached;
- that the breach of duty caused, or contributed materially to, the damage in question; and
- that there were consequences and effects of the damage.

The Limitation Act 1980 requires that claims must be made within three years of the date of the incident or three years from the date a claimant becomes aware that he/she has suffered from an episode of negligence. In the case of minors, the three-year limitation period becomes effective once they have reached the age of 18. However, for people who have a disability and cannot manage their own affairs, there are no time limits. Claims outside the three-year limitation period can, at the Court’s discretion, still be brought against the Health Board. It is often an expensive, lengthy and complex process to manage and settle claims and Lord Woolf undertook a review of the process so that improvements could be achieved in the overall civil justice system. This policy and associated procedures have been developed to mirror the objectives of openness and timeliness stressed by Lord Woolf in the introduction of the reforms to the Civil Justice System introduced in April 1999.

2. Policy Statement
This document describes the Health Board’s policy for the management of claims made against the Health Board for alleged clinical negligence, personal injury and property claims, in accordance with the Civil Procedure Rules; Putting Things Right regulations and guidance, the Welsh Risk Management Standard 5 - Concerns and Compensation Claims Management and Welsh Risk Pool (WRP) procedures and requirements.

3. Scope
The scope of this policy covers all staff employed by Hywel Dda University Health Board, involved in the management of or response to a claim received about the services provided by the Health Board.
4. Aim
This policy is an integral part of the Risk Management Strategy and Policy and is intrinsically linked to its systems for managing and learning from adverse incidents and concerns. The aim of this policy is to ensure the Health Board will manage all claims made against it fairly and as speedily as possible, dealing with each claim on its own merits and seeking legal and expert advice as appropriate in accordance with the Woolf Reforms.

5. Objectives
The Health Board will adopt a common and standardised approach in dealing with litigation claims and aims to gather all evidence as quickly as possible and, where liability is admitted, will seek to negotiate settlement in the shortest possible time. The Health Board will consider and offer the option of investigation under the Putting Things Right Redress scheme for appropriate cases.

The Health Board will adhere to the requirements of the Pre-Action Protocols for the resolution of Clinical Negligence and Personal Injury claims, as laid down by the Civil Procedure Rules, ensuring a constructive and open approach to claims that reduce delays and costs and the need for formal legal action. The Health Board will make use of the Personal Injury Claims Portal to achieve the costs savings intended by the introduction of the scheme.

The Health Board is committed to learning lessons from claims and concerns to ensure the continued improvement in standards of patient and staff safety and services.

The Health Board will not settle claims of doubtful merit, however small, purely on a ‘nuisance value’ basis. Nor will claims be inappropriately defended. The decision to settle a claim will always be based on an assessment of the Health Board’s legal liability and the risks and costs associated with a defence, including the prospects of recovering those costs in the event that the defence is successful.

The Health Board will make every effort to resolve a claim before court proceedings are issued and will explore Alternative Dispute Resolution (ADR) methods as recommended by the Putting Things Right Guidance, when appropriate.

The Health Board will ensure that when formal legal action is unavoidable, it conducts its defence in a fair and timely manner, ensuring that legal costs are incurred appropriately and proportionately.

The Health Board will not settle claims of doubtful merit, however small, purely on a ‘nuisance value’ basis. Nor will claims be inappropriately defended. The decision to settle a claim will always be based on an assessment of the Health Board’s legal liability and the risks and costs associated with a defence, including the prospects of recovering those costs in the event that the defence is successful.

6. Managing Claims Procedure
Redress can include an apology; remedial treatment and/or financial compensation; however, the majority of concerns do not result in financial compensation and are usually pursued without the involvement of a solicitor. However, persons raising a concern will be entitled to legal advice on the investigation of a concern under the NHS Concerns, Complaints and Redress (Arrangements) (Wales) Regulations 2011 – referred to as the ‘Putting Things Right Regulations’ and on any offer of redress, the cost of which will be met by the Health Board in accordance with the fixed fees framework. An investigation into a concern cannot be pursued.
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once court proceedings have been issued. In accordance with Putting Things Right Regulation 14(1)(i) - when court proceedings are commenced when a concern is already under investigation, all further investigation of the concern must stop.

7. Redress

7.1 It should be noted that there is a distinction between the process for managing a complaint and a claim for compensation. Complaints (Concerns) are managed in accordance with the National Health Service Concerns, Complaints and Redress Arrangements (Wales) 2011, which place a duty on the Health Board to consider redress for patients who have suffered harm as a result of shortcomings in the standard of care provided by the Health Board.

7.2 Redress can include an apology; remedial treatment and/or financial compensation; however; the majority of concerns do not result in financial compensation and are usually pursued without the involvement of a solicitor. However, persons raising concerns will be entitled to legal advice on the investigation of a concern under the Putting Things Right Regulations and on any offer of redress; the cost of which will be met by the Health Board in accordance with the fixed fees framework. An investigation into a concern cannot be pursued once court proceedings have been issued. In accordance with Regulation 14 (1) (i); when court proceedings are commenced when a concern is already under investigation, all further investigation of the concern must stop.

7.3 The Public Services Ombudsman for Wales can instruct Local Health Boards to make payments following his investigation into concerns and these will be authorised in the same way as payments for financial redress.

7.4 Legal Services Managers (LSM) will offer claimants the opportunity to handle a claim for compensation, where appropriate, under the NHS Redress Procedure. All payments made under the NHS Redress procedure will be reported to the Welsh Risk Pool as part of the losses and special payment procedure. Any costs over £25,000 will be reimbursable, pending completion of the Claims Reimbursement Form (Appendix B), providing reassurance about remedial action undertaken and lessons learned.

7.5 A Claims Reimbursement Form is completed for claims below £25,000 but the Welsh Risk Pool do not require the form to be submitted for cases which are handled by NWSSP Legal and Risk Services as they have access to a shared database. The Appendix T is used as a means to share lessons within the Health Board.

7.6 An Appendix T is completed for claims below £25,000 but the Welsh Risk Pool do not require the form to be submitted for cases which are handled by NWSSP Legal & Risk as they have access to a shared database. The Appendix T is used as a means to share lessons within the Health Board.

8. Legal Advice

8.1 The Health Board utilises the Solicitors at NWSSP L&R to act on their behalf in all claims for compensation relating to clinical negligence, personal injury and property, which require legal advice, brought against the Health Board.
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8.1 NWSSP L&R also provides general legal advice. The Health Board may request general legal advice from other solicitors in line with their specialist knowledge. Contract arrangements are in place to ensure the Health board has access to such advice via the Partnership Contract for Legal Services (Consortium).

8.2 Legal advice should be sought at the onset of all claims and will include assessments of:
- Breach of Duty, liability, causation and loss
- Strength of the Defence on the balance of probabilities
- Potential quantum of damages
- An estimate in respect of the costs of defending the claim.

8.3 NWSSP L&R also assist in the selection of expert witnesses and may suggest alternative methods of resolving disputes such as Mediation or ADR. Authorisation is obtained prior to Mediation in line with Appendix A, Schedule of Delegation, to negotiate settlement in line with Counsel’s advice on Quantum. Should additional information come to light or advice from Counsel change during the mediation and an opportunity for concluding the case could be missed, delegated authority is given to the Legal Services Manager and the UHB’s legal team to act in the UHB’s best interests and to make a judgement call about reaching agreement in the mediation if it was felt strongly that it was in the UHB’s best interests to do so. A full written explanation of events and the governance around the decision will be provided to the Chief Executive immediately following the conclusion of the mediation.

8.4 In claims where a negotiated settlement is proposed, the decision to proceed will be made in line with the schedule of delegation, see Appendix A. Decisions should be made taking into account the professional advice received from NWSSP L & R. The use of Part 36 offers should be discussed with NWSSP L & R as a means of settlement of claims and protecting the UHB in relation to costs, cost penalties and interest.

9. Confidentiality
9.1 Information that is gathered during the course of a claim will be stored in a suitably secure manner in line with the UHB policies and procedures for Records Management and Data Protection and Confidentiality.
9.2 Such information will be shared with the UHB Solicitors as necessary. Where such information is not privileged, it may also be released to litigants or their representatives in the interests of protecting the UHB legal.

10. Financial Matters
10.1.1 Welsh Government (WG) has delegated the responsibility of settling claims up to a limit of £1,000,000 to the Chief Executive/UHB, assuming that the UHB has met the minimum standards for claims handling by the WRP and the criteria set out in Putting Things Right regulations and guidance. Any claims that have not been managed within these standards and criteria will be treated as losses which will require either retrospective approval from WG (if appropriate) or recover/write off action.

10.2 Legal Services Managers and relevant finance officers will maintain databases of all claims, including appropriate accounting provision for the UHB liabilities. The claims database, within the Datix system, will comply with WG guidance. All payments in respect of clinical negligence or personal injury claims will be entered in the register of losses and special payments LaSPAR by the Finance Department.
10.3 The UHB agrees delegated financial limits for the settlement of each claim as set out in Appendix A

11. Links between Concerns, Risk and Litigation
11.1 Adverse incidents or outcomes which could lead to a claim for negligence should be identified and reported to the Legal Services Manager immediately they occur, either by provision of an incident report or by provision of the required information such as:-
- details of potential claimant;
- date and details of incident/outcome from which the claim might arise;
- names of clinical, nursing and other staff involved in or witnessing the incident;
- statements by clinical, nursing and other staff involved in or witnessing the incident.

11.2 The DATIX system identifies if a potential claim has previously been reported as an incident or concern. This facilitates the gathering of information to comply with the pre-action protocols and the Putting Things right ethos of “investigate once investigate well”. Appropriate reports combining information on concerns, claims, risk and incidents will be provided to relevant groups to enable information to be cascaded through all levels of the organisation.

12. Learning Lessons
12.1 The UHB is committed to learning lessons from claims, concerns and adverse incidents at the earliest opportunity. It is important that actions are taken and lessons are learnt following every incident, to prevent reoccurrence. This applies to all formal concerns and incidents and that Redress is considered where harm has occurred.

12.2 All directorates and services within the UHB are required to have in place robust systems for lessons learnt. This will ensure identification of any trends and remedial action that may be required. Appropriate staff will then implement any recommendations arising from concerns, claims, expert witness reports and investigations. Monitoring of effectiveness of changes should involve the Clinical Audit Department. Each Directorate has responsibility for ensuring that any identified and agreed actions are implemented and monitored and that lessons are shared across the organisation.

12.3 Any new risks identified through the investigation of a claim must be subject to a full risk assessment and incorporated within the relevant risk register. Assurance on actions taken and the effectiveness of those actions will be presented to the Improving Experience Sub-Committee.

13. Novel, Contentious or Repercussive Payments
In normal circumstances, settlements within the UHB delegated limit of £1 million will not be reported to the WG. However, any claims which exceed the UHB delegated limit of £1 million or that are novel, contentious or repercussive will be reported to the WG for approval. These may include claims, which could set an unfortunate precedent if handled badly, and those that appear to be test cases.
14. Nuisance Claims/Payments
Cases of doubtful merit, however small, will not be settled purely on a ‘nuisance value’ basis. The decision to settle a case or contest it should always be based upon an assessment of the risk of losing and the economics of the cost of continuing legal fees, taking into consideration the fact that the claimant may be legally aided and that such costs would be unrecoverable.

15. Use of Appendix S
Appendix S will be used as a means of reimbursement from the WRP and identification of lessons learnt, they will form part of the reporting systems within the UHB. The Appendix S will also identify novel, contentious or repercussive claims which have been reported to WG. Any claims which identify lessons learnt that would be of value to other health bodies or to the NHS as a whole will be identified on the Appendix S and forwarded to the WRP and WG.

16. Audit
The responsibility for auditing compliance with this policy and procedure lies with the Director of Nursing, Quality and Patient Experience. The Legal Services Team will ensure an audit is carried out which complies with the WRP Standard 5 Concerns and Compensation Claims Management.

17. Responsibilities
17.1 Chief Executive
The Chief Executive has overall responsibility for the management of legal claims made against the UHB. This responsibility is delegated to the Director of Nursing, Quality and Patient Experience who is the designated Director responsible for legal issues and claims relating to clinical negligence, personal injury, property and other relevant losses and for keeping the UHB informed of major issues or developments affecting the organisation.

17.2 All Executive Directors
All Executive Directors have a delegated accountability and responsibility within their directorates for the implementation and adherence to this policy and to ensure that any failings identified which arise during the investigation of a claim are addressed and any lessons learned are shared across the organisation.

17.3 Assistant Director (Patient Experience/Legal Services)
The Assistant Director (Patient Experience/Legal Services) is responsible for producing the policy for claims management and ensuring this is being implemented across the organisation.

17.4 Medical Director
The Medical Director has responsibility for ensuring that any failings identified through the investigation of a claim are addressed appropriately, supported in this by the Director of Operations/Deputy Chief Executive.

17.5 Heads of service and directorate/hospital senior management teams
Heads of service and directorate/hospital senior management teams are responsible for ensuring the policy is distributed to members of their teams and that the policy is understood and adhered to. In addition, heads of service and senior managers will be responsible for ensuring that any identified failings which arise during the investigation of a claim are addressed and any lessons learned shared across the organisation. They will be responsible for producing and monitoring action plans.
17.6 **Assistant Director (Patient Experience/Legal Services) and the Legal Services Managers**

The Assistant Director (Patient Experience/Legal Services) and the Legal Services Managers are accountable for the management of claims for ensuring compliance with this policy and the All Wales Putting Things Right Guidance including compliance with delegated authority limits and for securing the most cost-effective resolution of claims. The Health Board acknowledges the importance of the claims management process within its organisation and will ensure that the process and the appointed Legal Services Managers have sufficient seniority and profile as required by the WRP standard 5 - Concerns and Compensation Claims Management.

17.7 **Managers and Staff involved with claims**

Managers and Staff involved with claims will be kept informed of the progress and outcome of all individual cases via the Legal Services Managers.

17.8 **Legal Services Team**

Legal Services Team will support directors, service managers and staff in this process through the provision of claims information, which will assist in ensuring that lessons are learned and appropriate corrective and/or preventive action is taken and implemented in an effective manner.

The practical implementation of the policy will be undertaken by the Legal Services Managers but all staff require a knowledge of the policy and the All Wales Putting Things Right Guidance.

17.9 **All members of staff**

All members of staff are encouraged to report all adverse incidents in line with the Board’s incident reporting policy, including those that may lead to claims for compensation, in line with the UHB’s promotion of a blame-free culture. Members of staff also have a duty to the UHB in the investigation and where appropriate, defence of all claims and will assist as necessary during the claims management process.

17.10 **All clinical staff working**

All clinical staff working within the UHB will be informed by the relevant member of the Executive Team of their responsibilities in being open and honest with patients and their families even when things go wrong, in line with the NPSA’s “Being Open” policy.

17.11 **Improving Experience Sub Committee**

Approval of this Claims Management Policy has been delegated to the Business Planning, Performance and Assurance Committee and the detailed operational arrangements for complying with this policy will be delegated to the Improving Experience Sub Committee which is a sub-group of the Statutory Quality, Safety and Experience Assurance Committee.
18. The Welsh Government and the Welsh Risk Pool
18.1 The WG funds the WRP by a top slicing arrangement. The WRP resources all claims in excess of £25,000. The UHB is assessed against the WRP Standard for Concerns and Compensation Claims Management.

18.2 In order to be reimbursed by the WRP the UHB is required to submit a Claims Reimbursement Form. The Chief Executive is responsible for signing this together with one other Executive Director. The Chief Executive has nominated the Director of Operations /Deputy Chief Executive for the purposes of signing the Appendix S, only during periods of absence. This document identifies lessons learnt from claims which will be fed into the appropriate committees for monitoring and cascading throughout the organisation. Any risks identified as a result of claims will be fed into the appropriate Risk Register.

19. Legal Advisers
19.1 The UHB will use legal advisors in the defence or settlement of clinical negligence and personal injury claims. Small to moderate value claims of moderate complexity can be managed in-house by the UHB Legal Services Team. All other claims will be managed by NWSSP L & R.

19.2 Where external legal advice is sought, the UHB will be responsible for the direction of its solicitors in respect of liability admission, defence, settlement and general tactics. However legal advice will always be taken into account by the UHB in making such decisions. Legal advice will cover:

- Liability and causation;
- An assessment of the strength of the available defence and probability of success;
- The likely valuation of quantum of damages including best and worst case scenarios; and
- Estimates of legal costs for claimant and defendant.

19.3 For claims managed in-house, legal advice will be provided by the Assistant Director (Patient Experience/Legal Services) and the Legal Services Team in association with NWSSP L &R or agreed external provider. All legal advice will be recorded on the claim file.

19.4 The Chief Executive/Director of Finance or Director of Nursing, Quality and Patient Experience will take the final decision to settle a claim or to continue with its defence according to the delegated limits set out in Appendix A.

19.5 NWSSP L & R will provide the UHB with a quarterly quantum listing including probabilities, estimated claims values and anticipated settlement dates.

19.6 The Welsh Government (WG) will be advised by NWSSP L & R of claims in excess of £1m. approval must be sought from WG before settlement is reached. The Health Board also has a responsibility to notify the WG/WRP of novel, contentious and repercussive claims.

20. The Health Board Responsibilities
20.1 The Board of the UHB is accountable for the performance of the organisation, in handling claims and ensuring lessons are learnt to improve services. The Board has a strategic role in ensuring the claims management process has a high profile within the UHB and that this is reflected in its committee and organisation structure.
20.2 Responsibility for legal issues has been delegated to a designated Director, the Director of Nursing, Quality and Patient Experience. A record of this is to be recorded in the UHB Scheme of Delegation. Roles and responsibilities for monitoring and evaluating the management of claims will be determined by the Board.

20.3 Delegated authority for medium and low cost claims has been agreed as set out in Appendix A of this policy which complies with the Standing Financial Instructions.

20.4 The UHB will be regularly appraised of issues appertaining to claims. The Director of Nursing, Quality and Patient Experience will keep the Board informed of all significant issues pertaining to the UHB claims profile and claims handling record. The UHB will receive information on a six monthly basis highlighting areas where patterns and trends are emerging in relation to clinical negligence, personal injury and property claims.

20.5 The Board will be informed of the action that has been taken or measures put in place to prevent/reduce the likelihood of a similar incident leading to a claim for compensation arising in the future. The Board will also seek reassurance from the Improving Experience Sub-Committee, sub-group of the Statutory Quality, Safety and Experience Assurance Committee that the actions/measures have been implemented and are being monitored on a regular basis.

20.6 As claims management is integral to quality improvement, the formal reporting structure developed by the Director of Nursing, Quality and Patient Experience will ensure that those senior staff or groups with responsibility for quality improvement are provided with appropriate information.

20.7 Chief Executive
20.7.1 The Chief Executive has overall responsibility for the efficient and effective management of clinical negligence, personal injury and property litigation.

20.8 Director with responsibility for legal issues
20.8.1 The Director of Nursing, Quality and Patient Experience has been delegated the responsibility for legal issues and will consequently keep the UHB informed of major developments in relation to clinical negligence, personal injury and property claims. The Director also has responsibility for recommending, agreeing and implementing a reporting mechanism to facilitate monitoring of claims. This should include an annual review of claims management, in liaison with the WRP assessment of standard 5.

20.8.2 A request for compensation following on from a concern, but not as a legally represented claim, can be made by the patient. The Director of Nursing, Quality and Patient Experience can authorise payments without legal advice, for sums within the authorised limit, see Appendix A, if there is sufficient evidence that the patient has suffered loss as a result of the treatment given by UHB staff in line with the Redress Scheme for Wales. The Director will establish structures to ensure:

- Staff responsible for handling claims act within their delegated limits and levels of authority.
- Claims are investigated thoroughly, speedily and accurately with appropriate internal and independent overview.


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Version 3.0

Claims Management Policy

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• There is adherence with the inclusive process for considering and taking decisions on admission or defence of cases.
• Legal and expert advice is obtained when necessary and such services deliver the best value for money.
• The outlay in damages and costs reflects the best settlement possible for the Health Board, including consideration of periodic payments, where appropriate, see Appendix A.
• Processes to learn lessons from claims are adhered to and the implementation of agreed actions to reduce risk and improve safety for the future is monitored.
• The UHB Solicitors provide regular reports on probabilities, estimated claims values and anticipated settlement dates.
• Bi-monthly Reports and an Annual Claims Report are produced and submitted to the Improving Experience Sub-Committee, sub-group of the Statutory Quality, Safety and Experience Assurance Committee.
• Cases are reviewed with appropriate managers to discuss and review current active cases.
• The Datix Database is maintained.
• There is an annual audit of cases submitted for reimbursement to the WRP as required by WRP Standard 5.

20.9 Legal Services Managers
20.9.1 The Legal Services Managers have direct responsibility for the management of clinical negligence, personal injury and property claims and ensuring that these are handled effectively and efficiently.

20.9.2 The Legal Services Managers:-

• Will have responsibility for maintaining a database within the Datix system.
• Will have responsibility for completing the WRP documentation, ensuring the UHB submits sufficient information for them to be approved, within the appropriate timescales and with appropriate signatures in line with the WRP requirements for the electronic submission process (Appendix S for claims over excess within 4 months). This will minimise any potential financial penalties.
• Will ensure the prompt provision of information and full assistance when the WRP requests further information on a WRP8 or instigates a review.
• Will provide routine reports to UHB appropriate committees.
• Will provide the WRP with a list of authorised signatures on form WRP 4.
• Will be suitably experienced and qualified, either on appointment or be working towards a suitably recognised qualification in claims management.
• Will be supported by the UHB in continuing professional development and have sufficient standing within the organisation to demonstrate seniority and status fit to exercise direct access to the relevant Directors as appropriate.
• Will be updated by attending the WRP Concerns Managers Network – Claims Specialist Sub Group and WRP and NWSSP L & R conferences. The Legal Services Managers should make every effort to attend and feed back to appropriate staff, managers and/or committee(s).
• Will inform the WRP of the claims where the alleged negligence occurred during the period covered by the former Dyfed Powys Health Authority. These claims predate the constitution of the Trusts which merged to form the Hywel Dda UHB and are managed in accordance with the guidance provided by the WRP. NWSSP L & R should also be informed to ensure the claim is allocated to the correct defendant on the quantum listing.
• Will be responsible on the basis of legal advice provided for settlement of reasonable costs.
• Will identify and manage claims on the Ministry of Justice Personal Injury Claims Portal as a means of reducing legal costs and speeding up the process.
• Will identify any claims over £1,000,000, any nuisance, contentious or repercussive claims and seek legal advice from NWSSP L & R who will, if appropriate, inform WG. The Legal Services Managers will use the WRP Appendix S to assist in this process by providing NWSSP L & R with a completed Appendix S.
• Will implement a quarterly review process incorporating the updating of information in Datix from information in the quarterly quantum listing supplied by NWSSP L & R.
• Will be made aware of concerns or incidents that may become claims with a view to resolving issues with complainers or litigants in person prior to litigation.
• Will arrange training in the application of the Claims Management Policy and any identified legal training needs.
• The Legal Services team will identify the potential for the use of ADR before considering litigation. In addition, the All Wales Putting Things Right Procedure will be used to ensure that patients receive, where appropriate, an apology and a full explanation of what went wrong to reduce the potential for complainers to take legal action to achieve such a remedy.
• For low value claims, the NHS Redress Scheme will also be offered as an alternative and should be viewed as the process for settling claims below the financial threshold as set out in the All Wales Putting Things Right Guidance.

20.9.3 All Staff
20.9.4 The Health Board recognises the co-operation of all staff involved in the incident leading to a claim is crucial to the early collation of information to that case. The Health Board will ensure that such staff are encouraged to support the Legal Services Team and any duly appointed legal advisors in the handling of a claim. All staff are required to fully and openly co-operate with the investigation of any legal claims and to comply with this Policy. The duties of staff continue after they have left the organisation.

20.9.5 Once an incident has been reported, the Legal Services Manager will establish an objective account of the original incident at the earliest available opportunity, taking advice from colleagues where appropriate.

20.9.6 Unless there are exceptional circumstances, any member of staff asked to do so will provide the Health Board with a witness statement and/or oral testimony. The UHB recognises that providing a statement and giving evidence can be a stressful experience and will ensure that full support and guidance is provided to members of staff who are asked to give evidence /attend court.

20.9.7 The Health Board will support the escalation procedure to secure the objective of active and timely support of relevant members of staff involved in claims.

20.9.8 The Health Board will take full responsibility for managing and where appropriate settling claims and meeting all financial obligations. It will not seek to recover any costs from health professionals, save in very exceptional cases, where the health professional was legally found to be acting outside of his/her remit. Any such case will be reviewed, considered and determined on its individual merit and circumstances.
21. **TRAINING**
Training on Claims Management is provided to clinical and non-clinical staff on a regular basis. This is also undertaken in line with the training on Putting Things Right and Being Open processes.

22. **IMPLEMENTATION**
This policy reflects the revised organisational accountabilities and governance arrangements around the Putting Things Right process in relation to claims for compensation. This revised process will be implemented by the Legal Services Managers and guidance issued to all staff who are involved in the claims management process.

23. **REFERENCES**
This policy complies with the following references:
The Civil Procedure Rules 1998
All Wales Putting Things Right Guidance
WHC(98)8 - NHS Indemnity – Arrangements for Handling Clinical Negligence Claims against NHS Staff
The WRP Concerns and Compensation Claims Management (February 2013)
The WRP Reimbursement Procedure, Guidance on Electronic claims’ submission and other Procedures
The UHB’s Standing Orders and Standing Financial Instructions
WRP All Wales Policy on NHS Indemnity and Insurance
The National Health Service (Concerns, Complaints and Redress Arrangements (Wales) 2011
WHC(2016)034 Approval of Medical Negligence Personal Injury Claims over £1m
The table below confirms levels of delegated authority.

<table>
<thead>
<tr>
<th>Damages</th>
<th>Delegated authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>Over £1,000,000</td>
<td>No delegation. Refer to WG</td>
</tr>
<tr>
<td>£100,001 to £1,000,000</td>
<td>Chief Executive and Director of Finance</td>
</tr>
<tr>
<td>£25,001 - £100,000</td>
<td>Chief Executive (or Deputy Chief Executive in absence of CEO) Director of Nursing, Quality and Patient Experience</td>
</tr>
<tr>
<td>Up to £25,000</td>
<td></td>
</tr>
</tbody>
</table>

NOTES:
1) Decisions on all cases in excess of £10,000 will be supported by formal legal advice (solicitor or counsel).

2) Decisions which need to be taken in mediation meetings following authorisation
Should additional information come to light or advice from Counsel change during mediation and an opportunity for concluding the case could be missed, delegated authority is given to the Legal Services Manager and the UHB’s legal team to act in the UHB’s best interests and to make a judgement call about reaching agreement in the mediation if it was felt strongly that it was in the UHB’s best interests to do so. A full written explanation of events and the governance around the decision will be provided to the Chief Executive immediately following the conclusion of the mediation.

3) Urgent decisions for the purpose of settling litigation claims
The Standing Financial Instructions, Appendix 7 of the Standing Orders paragraph 19.15 allow for the Chief Executive or nominated deputy in his absence, to provide such authorisation if appropriate.

4) Periodic payments
In cases over £250,000 (where the claimant is agreeable) the Chief Executive and Legal Services Manager, in conjunction with the UHB legal advisors and the WG will evaluate the cost and benefits of setting up periodical payments.
Learning from Events Report

Clinical Negligence Claim

REF: INSERT REF

1.00 Clinical Case Summary
2.00 Investigation Findings
3.00 Harm arising from case
4.00 Redress Case Management
5.00 Issues & Actions
6.00 Learning Assurance Plans
7.00 Case Record
8.00 Declarations

This Learning from Events Report has been produced by Hywel Dda University Health Board, as part of a Welsh Risk Pool pilot to improve the learning from clinical negligence claims & redress cases. The Health Board is exempted from submitting the Appendix S or Appendix T documents for this claim in respect of a request for reimbursement in accordance with the WRP Scheme Rules.
### 1.00 Clinical Case Summary

- 1.01
- 1.02
- 1.03
- 1.04
- 1.05
- 1.06
- 1.07

### 2.00 Investigation Findings

- 2.01
- 2.03
- 2.04
- 2.05
- 2.06
- 2.07
- 2.08
- 2.09

### 3.00 Harm arising from Clinical Negligence

- 3.01
- 3.02

### 4.00 Claim Case Management

- 4.01
- 4.02
- 4.03
- 4.04
5.00 Issues & Actions

<table>
<thead>
<tr>
<th>Issue</th>
<th>Learning Plan</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>INSERT REF 001</td>
<td></td>
<td>IN PLACE / ONGOING / CARRIED OUT / COMPLETE / TO TAKE PLACE /</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Issue</th>
<th>Learning Plan</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>INSERT REF 002</td>
<td></td>
<td></td>
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</table>

6.00 Learning Assurance Plans

<table>
<thead>
<tr>
<th>Ref</th>
<th>Topic</th>
<th>Plan Summary</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>INSERT REF</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Clinical Negligence Case Record</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>--------------------------------</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cases settled under Delegated Authority</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Health Board Case Ref</th>
<th>INSERT REF</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health Board Directorate</td>
<td>Hywel Dda University Health Board</td>
</tr>
<tr>
<td>Health Board Speciality</td>
<td></td>
</tr>
</tbody>
</table>

**LASPAR Ref**

| Legal & Risk Services Ref | |
|---------------------------| |
| Legal & Risk Solicitor | |
| Expert Advice | |
| Legal Advice | |
| HB Claims Manager | |

**Linked to WG Reportable SI?**

NO / YES

| Serious Incident Ref | |
|----------------------| |
| Reported to NRLS | Reported Retrospectively |

**Linked to a complaint?**

YES / NO

| Complaint Ref | |
|----------------| |

**Linked to a Redress Case?**

YES / NO

| Redress Ref | |
|-------------| |

**Date Claim Received**

| Date Qualifying Liability Identified | |
|--------------------------------------| |
| Date agreement to settle claim reached | |
| Health Board authorisation to settle claim provided by | |
| Novel /Contentious / Repercussive Issues? | YES / NO |
| Details | |

**Damages Agreed?**

YES / NO

<table>
<thead>
<tr>
<th>General Damages</th>
<th>£</th>
</tr>
</thead>
<tbody>
<tr>
<td>Special Damages</td>
<td>£</td>
</tr>
</tbody>
</table>

**TOTAL DAMAGES**

£

<table>
<thead>
<tr>
<th>CRU Payment</th>
<th>£</th>
</tr>
</thead>
</table>

**TOTAL DAMAGES & CRU Payment**

£

| Claimants’ Costs Agreed? | |
|--------------------------| |
| TOTAL CLAIMANTS LEGAL COSTS | £ |
| Expert Fees Confirmed? | |
| TOTAL EXPERT FEES | £ |
| Defence & Legal Advice Costs Confirmed? | |
| TOTAL DEFENCE/LEGAL ADV COSTS | £ |
| WRP Reimbursement requested? | YES / NO |
| Total Value of Case | £ |
### Claims Management Policy

Please check that this is the most up to date version of this written control document. Paper copies of this document should be kept to a minimum and checks made with the electronic version to ensure that the printed version is the most recent.

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Excess deducted</td>
<td>£</td>
</tr>
<tr>
<td>Previous WRP payments deducted</td>
<td>£</td>
</tr>
<tr>
<td><strong>AMOUNT REQUESTED from WRP</strong></td>
<td>£</td>
</tr>
</tbody>
</table>
## 8.00 Declarations

<table>
<thead>
<tr>
<th>Declaration Type</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>HEAD OF LEGAL SERVICES DECLARATION</strong></td>
<td>I have considered fully the management of this claim and my findings are recorded. I confirm that the details recorded in each relevant section are complete and accurate and that these aspects of the PTR guidance have been properly considered and actioned.</td>
</tr>
<tr>
<td>Signed by</td>
<td>Date __________________</td>
</tr>
<tr>
<td>Print Name –</td>
<td>JANET GRIFFITHS</td>
</tr>
<tr>
<td>Position –</td>
<td>Head Of Legal Services</td>
</tr>
<tr>
<td><strong>GOVERNANCE DECLARATION</strong></td>
<td>I have considered fully the investigation findings, issues, actions plans and learning assurance, and confirm that the details recorded above are complete, accurate and reasonable response to the findings of the case.</td>
</tr>
<tr>
<td>Signed by</td>
<td>Date __________________</td>
</tr>
<tr>
<td>Print Name –</td>
<td>JOE TEAPE</td>
</tr>
<tr>
<td>Position –</td>
<td>Deputy Chief Executive/Director of Operations</td>
</tr>
<tr>
<td><strong>RESPONSIBLE BODY DECLARATION &amp; AUTHORISATION</strong></td>
<td>I confirm that the above details are complete and accurate and all aspects of the checklist have been properly considered and actioned. I agree that this payment offers the best value for money. I also confirm that:</td>
</tr>
<tr>
<td></td>
<td>• This case is within the delegated authority of this Responsible Body and is not novel, contentious or repercussive. I, therefore, agree to this special payment.</td>
</tr>
<tr>
<td></td>
<td>• The Responsible Body has complied with its obligations and the conditions set out in Welsh Government Guidance to enable it to exercise its delegated authority to settle claims valued below £1 million</td>
</tr>
<tr>
<td>Signed by</td>
<td>Date __________________</td>
</tr>
<tr>
<td>Print Name –</td>
<td>STEVE MOORE</td>
</tr>
<tr>
<td>Position –</td>
<td>Chief Executive</td>
</tr>
<tr>
<td>Signed by</td>
<td>Date __________________</td>
</tr>
<tr>
<td>Print Name –</td>
<td>PHIL KLOER / MANDY RAYANI - delete as appropriate</td>
</tr>
<tr>
<td>Position –</td>
<td>Medical Director / Director of Nursing, Quality and Patient Experience - delete as appropriate</td>
</tr>
</tbody>
</table>

*Please note that this section must be signed by 2 senior officers of the Responsible Body both of whom must be authorised signatories and one of whom must be the Chief Executive in accordance with the delegated limits set by the Board*