Claims Handling Policy
**Policy Title:** Claims Handling Policy

**Executive Summary:**
East Cheshire NHS Trust is committed to effective and timely investigation and response to any claim which includes allegations of clinical negligence or personal injury. This policy sets out the Trust's intentions in managing all claims including following the requirements of and noting the recommendations of the NHS Litigation Authority in the management of claims.

This policy should be read in conjunction with the policy schedule and the compliance monitoring tool.

**Supersedes:**
East Cheshire NHS Trust Claims Handling Policy 2010
Cheshire East Community Health Claims Handling Policy 2010

**Description of Amendment(s):**
Clarification of arrangements following merger of East Cheshire NHS Trust and Cheshire East Community Health. Inclusion of Appendix 1 following NHSLA L1 assessment.

**This policy will impact on:**
Corporate Affairs & Governance, particularly Legal Services Department.

**Financial Implications:**
None in the utilisation of this policy other than unquantifiable ex-gratia and excess payment as and when claims occur.

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<th>Policy Area:</th>
<th>Corporate Affairs and Governance</th>
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<td>Legal Services Manager</td>
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**APPROVAL RECORD**

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<tr>
<td>Legal Services Team Leader</td>
<td>November 2015</td>
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<td>Governance Department Managers</td>
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<td>Deputy Director of Corporate Affairs and Governance</td>
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<td>Risk Management Sub Committee</td>
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1.0 Policy Statement
1.1 EL (96) 11 “Clinical Negligence and Personal Injury Claims Handling” issued by the National Health Service Executive (01/04/96) requires that each Trust Chief Executive ensures that their Trust has a clear policy on the handling of clinical negligence and personal injury claims.

1.2 East Cheshire NHS Trust is committed to effective and timely investigation and response to any claim which includes allegations of clinical negligence or personal injury and will follow the requirements and recommendations of the NHS Executive (NHSE) and NHS Litigation Authority (NHSLA) in the management of claims.

1.3 The Trust recognises and accepts its responsibility to provide a safe and healthy workplace and environment for its employees, patients and visitors. Effective claims handling is essential in this respect as information gathered throughout the claims handling process is used to identify areas where care, practice or facilities have fallen below the required standard. Thus good claims handling is a fundamental tool of risk management. Identification of areas where improvements in service can be made will contribute to the promotion of the highest possible standards of care and facilitate wider organisational learning.

1.4 The Trust acknowledges the philosophy that every claim is a learning opportunity for the Trust and that staff will review claims to improve patient experience and contribute to a safer environment.

1.5 Any claims made will be investigated in an objective and thorough manner with the aim of uncovering facts and identifying risks which require active management. The Trust has an integrated risk management process linking adverse events, complaints and claims and the investigation of such events is described in the Trust’s Risk Management Policies and Procedures.

1.6 Every member of staff is expected to co-operate fully, as required, in the assessment and management of each and every claim.

2.0 Purpose
2.1 This document describes the systems and processes in operation at the Trust to be used for the handling of claims under the NHS Litigation Authority (NHSLA) Schemes, namely the Clinical Negligence Scheme for Trusts (CNST) and the Risk Pooling Scheme for Trusts (RPST). This document also deals with claims falling outside the aforementioned schemes and which may result in ex-gratia payments.

3.0 Scope
3.1 This policy refers to claims made for compensation by or on behalf of patients with respect to injury or harm caused as a result of clinical negligence. Such claims will be handled through the Clinical Negligence Scheme for Trusts (CNST).

3.2 It also relates to claims made by or on behalf of employees or members of the public with respect to injury or harm caused during the course of their employment or visit to the Trust premises. These non-clinical claims will be handled through the Liabilities to Third Parties Schemes (LTPS).

3.3 The policy and procedure also covers claims made through the Property Expenses Scheme (PES) by the Trust with regard to damage incurred to Trust property.

3.4 The Trust is advised by the NHSLA to treat the clinical and non-clinical claims management schemes as two separate entities.
3.5 The policy and procedure does not cover claims by patients, staff or visitors for lost or damaged property or any other requests for ex-gratia payments.

4.0 Organisational Responsibilities
4.1 Chief Executive
The Chief Executive has ultimate responsibility for the implementation and monitoring of the policies in use in the Trust. This responsibility may be delegated to an appropriate colleague. He/she will be the authorised signatory for all Defences entered on behalf of the Trust. In his/her absence this function may be undertaken by one of the Executive Directors of the Trust.

4.2 Director of Corporate Affairs and Governance
Is the Director with delegated accountability for claims management and will keep the Board informed of major developments on claims-related issues.

4.3 Deputy Director of Corporate Affairs and Governance
The Deputy Director of Corporate Affairs and Governance has line management responsibility for the Legal Services Manager in the delivery of a claims management service that meets the requirements of the NHS Litigation Authority.

4.4 Legal Services Manager
- The Legal Services Manager will be responsible for the delivery of a Trust wide claims management service, and will consult with the NHS Litigation Authority and work in conjunction with them in handling clinical negligence, third party and property claims by obtaining relevant records, reports, statements etc as required and act as the Trust signatory to legal papers except the Defence to a claim.
- The Legal Services Manager will identify and arrange for the preservation of all relevant records required throughout the duration of each claim, and will ensure that staff involved in or affected by a claim, are adequately supported as appropriate.
- The Legal Services Manager will ensure that staff involved in claims are kept updated with developments, are asked for their opinion where appropriate and advised of the outcome.
- The Legal Services Manager is the Trust contact with the Trust's legal advisers and legal assistance sought by any department can be obtained via the post holder during office hours.
- The Legal Services Manager will report on all claims to the Director of Corporate Affairs and Governance (or the Deputy Director of Corporate Affairs and Governance, as appropriate). In the absence of the Legal Services Manager, the Legal Services Team Leader will assume this responsibility. The Legal Services Manager and Legal Services Team Leader will not take leave simultaneously.
- The Legal Services Manager is responsible for informing the Risk Manager and/or Health & Safety Manager of any risk issues identified during the course of a claim, and will bring any risk management issues arising from the investigation of claims to the attention of the appropriate risk management group.
- The Legal Services Manager will undergo recognised claims handling training and maintain their knowledge base via attendance at appropriate training events.
- The Legal Services Manager will maintain a database of all claims, recording information about the nature of each claim, financial data and activity throughout the duration of the claim. This will enable the provision of relevant and timely information as required by the Board, the Business Units, the NHSLA and any other authorised body.

4.5 Legal Services Team Leader
- The Legal Services Team Leader is responsible for the day to day delivery and clerical requirements of claims management primarily in respect of clinical claims and maintains an overview of the non clinical claims.
The Legal Services Team Leader will consult with the NHSLA and work in conjunction with them in handling clinical negligence, third party and property claims by obtaining relevant records, reports, statements etc as required.

The Legal Services Team Leader will identify and arrange for the preservation of all relevant records required throughout the duration of each claim, and will ensure that staff involved in or affected by a claim, are adequately supported as appropriate.

The Legal Services Team Leader will inform the lead clinician (usually the Consultant) nominally in charge of a patient’s care, when a clinical claim is made in connection with that episode of care, and will ensure that staff involved in any claim are kept updated with developments, are asked for their opinion where appropriate. She/he will advise them of when a decision to settle the claim is made...

The Legal Services Team Leader will undergo recognised claims handling training and maintain their knowledge base via attendance at appropriate training events.

In order to ensure that there is access to legal advice the Legal Services the Team Leader will not take leave simultaneously with the Legal Services Manager.

### 4.6 Head of Safety, Risk & Resilience
Will be responsible for ensuring that any risk issues identified during the investigation of a claim are shared with the Service Lines and corporate areas (as appropriate) and that assurances are received in relation to mitigating actions taken.

### 4.7 Clinical Directors
Ensure that any action plans of lessons learnt following the investigation of claims are implemented appropriately and monitored via the Service Line Safety Quality and Standards (SQS) groups - including follow up audits where necessary.

### 4.8 Service Line Heads of Services
The Service Line Heads of Service will provide full support and co-operation to the Clinical Directors in achieving their responsibilities in respect of this policy.

### 4.9 All Staff
- Any staff member who receives correspondence purporting to be a claim for compensation MUST immediately forward it to the Legal Services Manager
- All staff are expected to co-operate fully in the assessment and management of any claim that they may be involved with.
- Staff who have been involved in the care of a patient who is the focus of a claim are factual witnesses and are expected to co-operate with the investigation process. This could include providing witness statements, attending meetings with solicitors and/or barristers acting on behalf of the Trust and attending Court to give evidence.

### 4.10 Specialist Advisers
Clinical staff who have not been directly involved in the care of a patient who is the focus of a claim may be asked for their professional opinion to assist the Trust in deciding how best to handle a clinical claim. This may be due to the absence of the staff who were directly involved or for the purpose of obtaining an additional independent view of the case.

### 5.0 Reporting Arrangements
5.1 The Trust Board member with responsibility for claims management is the Director of Corporate Affairs and Governance who will keep the Board informed of major developments on claims-related issues.

5.2 A sub-group of the Trust Board, known as the Safety, Quality and Standards Committee whose membership includes the Executive and Non Executive Directors will receive a report 4 times per year on claims as part of an Integrated Governance Report.
5.3 Details of the number of active and closed claims will be reported 12 times per year as part of the Performance Report.

6 General Claims Handling Information

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

6.6.2 A claim may be made by anyone (or on behalf of anyone as above) receiving a service provided by the Trust who believes that they have suffered loss or detriment to their health or wellbeing resulting from the delivery of that service (Public Liability).

6.6.3 A claim may be made by employees (or on behalf of former employees as above) of the Trust who believes that they have suffered injury as a result of a breach of duty under Health & Safety legislation (Employer's Liability).

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

6.2 Relevant Dates
6.2.1 East Cheshire NHS was established on the 1st April 1993. Claims that pre date this time are the responsibility of the Strategic Health Authority and should be directed to them immediately upon receipt of notification of a pre April 1993 claim.

6.2.2 East Cheshire NHS Trust merged with Cheshire East Community Health on 1st April 2011. Claims relating to former Cheshire East Community Health that pre date this time are the responsibility of the Eastern Cheshire Clinical Commissioning Group and should be directed to them immediately upon receipt of a pre April 2011 claim.

6.3 Triggers for Invoking the Claims Procedure
6.3.1 The Trust's claims procedure will always be invoked upon receipt of a formal Letter of Claim outlining the claim as determined under the Pre-Action Protocol for the Resolution of Disputes (1998).

6.3.2 Whilst a request for compensation is usually made by a solicitor acting for an individual the Trust may receive a letter from a patient, employee or visitor directly or from their next of kin or appointed representative. Such requests will also trigger instigation of the claims procedure.

6.3.3 Where the Trust receives a formal complaint which indicates a clear intention to take legal action or an existing complainant indicates that they are going to pursue a claim, the Customer Services Department will inform the Legal Services Department who will seek advice from the NHSLA to determine whether progressing the complaint might prejudice subsequent legal action. Until this is determined the complaint investigation must continue.

6.3.4 The Trust may choose to make a one-off “ex gratia” payment in certain circumstances. These payments are made without admission of liability and are not covered by the NHSLA but are offers of payment made to show good intention. Examples might include payment for lost or damaged personal property.
6.3.5 NHSLA agreement MUST be obtained before any admissions of liability or offers of compensation are made. In the absence of such authorisation the NHSLA may choose not to reimburse the Trust for the compensation awarded or costs incurred.

6.4 Time-scales for Reporting Incidents and Claims

6.4.1 The Trust actively encourages early identification of situations which might result in a claim before a claim is initiated. This could be when an untoward incident occurs or a complaint is made. All staff are responsible for ensuring that untoward incidents are reported via the Trust’s incident reporting system (Datix).

Early investigation of an untoward event provides for a more accurate recollection of events, improved collection and exchange of information and enables the Trust to gain the best possible opportunity to form a constructive relationship with the individual making the claim.

6.4.2 Timely and thorough incident investigation at a pre-action stage can result in the early settlement of a claim. This in turn reduces the need for expensive, time-consuming and a worrying litigation process for the Trust and any individual involved. There are a number of time-scales that apply to the claims management process. The time scales are included in the Claims Handling Procedure but are summarised as follows:

**Clinical claims**
- Pre-Action Disclosure of Records Request indicating a possible claim, should be acknowledged within 5 working days
- Requests for disclosure of medical records will be processed within 40 days.
- Receipt of letter of claim to be acknowledged to the Claimants solicitors within 14 working days of receipt
- All letters of claim should be reported to the NHSLA within 5 working days
- Information to facilitate the letter of response will be forwarded to the NHSLA within 12 weeks of receipt of the letter of claim
- Any legal proceedings served upon the Trust to be notified to the NHSLA immediately
- A check list of all key milestones will be maintained on each file

**Non-clinical claims**
- Receipt of letter of claim to be acknowledged to the Claimants solicitors within 14 working days of receipt
- Claim reported to NHSLA within 5 working days of receipt
- Information to facilitate the letter of response will be forwarded to the NHSLA within 12 weeks of receipt of the letter of claim
- Any legal proceedings served upon the Trust to be notified to the NHSLA immediately
- A check list of all key milestones will be maintained on each file

**Claims falling outside the scope of the Clinical Negligence Scheme for Trusts (CNST) or Risk Pooling Scheme for Trusts (PES)**
- Claims, generally small in value, often concerning matters such as lost or damaged property belonging to patients or staff, will be addressed without reference to the CNST or RPST by way of an ex-gratia payment - subject to Standing Financial Instructions (SFI's).
- The Director of Corporate Affairs and Governance (or Deputy Director) may authorise such payments, up to the delegated limit for ex-gratia payments. Settlements may be agreed by the Director of Corporate Affairs and Governance (or Deputy Director) up to the value of £10,000. Any settlement above that sum, up to £50,000, can be agreed with the Chief Executive after obtaining legal advice.
- In addition to very small value claims, the Legal Services Manager may seek to address claims falling below the excesses of the RPST’s Liabilities to Third Parties Schemes (LTPS), taking legal advice where appropriate. This option will be pursued when it is
financially beneficial to the Trust, e.g. a personal injury claim, for a trip/fall by a third party, where the excess carried by the Trust in matters of Public Liability is £3,000, may be settled up to that amount with an ex-gratia payment to the Claimant. Thereby, negating legal costs associated with a formal claim. Such settlements must be authorised by the Deputy Director of Corporate Affairs and Governance (or the Director).

- Complaints upheld by the Health Services Ombudsman (HSO) may also lead to ex-gratia payments.

6.5 Confidentiality

6.5.1 It is essential that the duty of confidentiality owed by the Trust to its patients and staff is maintained throughout the claims process, and patient and staff records for those individuals involved in claims must not contain reference to the fact that that person has made a claim against the Trust unless absolutely necessary.

6.5.2 Staff and patient records must not be disclosed to any third party without the written and express permission of the individual or their personal representative. All personal identifiable information should be anonymised to avoid identification where possible.

6.5.3 Any documentation relating to the claims process and which contains personal identifiable information which is to be sent outside the organisation by post must be sent by recorded delivery. Faxed details should be sent via Safe Haven faxes.

6.5.4 Access to the Trust's litigation database should be limited to selected members of the Legal Services Team only. Personal passwords must be used which must remain unique to that system user.

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

6.6 Clinical Negligence Scheme for Trusts (CNST)

6.6.1 The Trust receives financial and administrative assistance for the handling of clinical negligence claims from the NHSLA through two schemes.

6.6.2 The Existing Liabilities Scheme (ELS) provides cover for claims in which the incident date precedes 1st April 1995.

6.6.3 The Clinical Negligence Scheme for Trusts (CNST) provides cover for claims in which the incident date occurred on or after 1st April 1995.

6.6.4 The Trust pays a premium to the NHSLA for these services and there are no excesses applicable for these schemes.

6.6.5 The Trust will report new clinical claims using the format agreed between the NHSLA and the Association of Litigation and Risk Management (ALARM) and follows the reporting guidelines in place (currently the fifth edition published in October 2008).

6.7 Liabilities to Third Parties Scheme (LTPS)

6.7.1 The Liability to Third Party Scheme provides financial and administrative assistance for the handling of non-clinical claims made with respect to third parties where the original incident date occurred on or after 1st April 1999.

6.7.2 Employer and Public Liability claims fall under the Liabilities to Third Parties Scheme. The Trust pays a premium to the NHSLA for these services. The standard excesses applying under the Liabilities to Third Parties Scheme are:

- £10,000 Employers Liability claims
- £3,000 Public & Products Liability claims
- £10,000 Pollution Liability claims
- £3,000 Financial Loss claims
- Nil Directors’ & Officers’ Liability claims
- £3,000 Professional Liability claims

6.7.3 Payments made beneath the excess in respect of Liabilities to Third Parties Scheme claims are met by the Trust. The Trust agrees to follow the directions issued by the NHS Litigation Authority in relation to the administration of the Liabilities to Third Parties Scheme.

6.7.4 The Trust will report all new employers and public liability claims using the appropriate reporting mechanism. The guidelines currently in place came into effect in August 2006 and include the requirement for the Trust to enclose, complete and submit the following documentation for every workplace-related claim:
- NHSLA LTPS report form
- Letter of claim
- Completed NHSLA Disclosure list
- Signed declaration

6.8 Property Expenses Scheme (PES)

6.8.1 The Trust is a member of the Property Expenses Scheme, run by the NHSLA, which provides the potential for recovery following loss or damage to Trust property.

6.8.2 The Property Expenses Scheme provides financial and administrative assistance for the handling of claims incurred from any loss or damage to property where the original loss occurred on or after 1st April 1999.

6.8.3 The Trust pays a premium to the NHSLA for this service. The standard excesses applying under the Property Expenses Scheme are:
- £20,000 Buildings
- £20,000 Contents
- £10,000 Money
- £10,000 Goods in Transit
- £20,000 Engineering
- £10,000 Fidelity Guarantee
- £20,000 Contract Works

6.8.4 There is a limit to reimbursement of £1,000,000 on the PES scheme (without the exceptional consent of the NHSLA).

6.8.5 Payments made beneath the excess in respect of Property Expenses Scheme claims are met by the Trust.

7 Open Communication and Apologies

7.1 Encouraging Open Communication

Open communication can be fostered through:
- The adoption of the philosophy that every claim is a learning opportunity for the Trust and that staff will review claims to improve patient experience.
- A structured approach to claims handling in accordance with this policy, so that staff know what to expect when a claim is received.
- The sharing of lessons learnt within the team, across the organisation and with other organisations e.g. the Eastern Cheshire Clinical Commissioning Group.

7.2 Open Communication – The Process
7.2.1 Patients involved in a claim against the Trust must feel confident that their claim will be dealt with separately and will not impact on the care that they receive.

7.2.2 Although there may be a conflict of interest if a claim is made, the Legal Services Manager will explain how to make a claim and if a potential claimant is distressed they will refer them to Patient Advice and Liaison Service who can signpost other support services. Any communication will be documented by the Legal Services Manager. The Legal Services manager will follow the trust interpretation policy if required.

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

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

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

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

7.3.4 Once the Trust reports a claim to the NHSLA, the NHSLA deals with the claimant or their legal representative directly.

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

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

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

7.5 Formal Admissions of Liability
7.5.1 In keeping with its financial and case management responsibilities, the NHSLA will make or agree the terms of formal admissions of liability within or before litigation. The advice from the NHSLA is to encourage scheme members and their employees to offer the earlier, more informal, apologies and explanations so desired by patients and their families.
7.5.2 Following a formal admission of liability, the NHSLA will agree with the Trust a formal letter of apology to be sent to the claimant.

8 Communication with Relevant Stakeholders and Third Parties
The Legal Services Manager is responsible for the day-to-day management of claims and will maintain the following internal and external relationships which may be linked with such claims management. All communication will be kept on file and documented on the check list in each file

8.1 Clinician / Member of Trust Staff Involved
As far as is possible staff involved in any allegations relating to a claim against the Trust will be advised of the case and included in the decision making process during in resolution of a claim. Limitations to this intention may include situations where staff no longer work at the Trust and cannot be located.

8.2 NHS Litigation Authority (NHSLA)
The Legal Services Manager will be responsible for the accurate and timely reporting of all new claims to the NHSLA and for continuing communication thereafter. This will include seeking the agreement and approval of the NHSLA for any press releases in respect of claims. The NHSLA main office is at:

NHS Litigation Authority, 2nd Floor, 151 Buckingham Palace Road, London, SW1W 9SZ.
Tel: 020 7811 2700

The NHSLA will involve the Trust before making admissions of liability or settling claims as the Trust remains the Defendant in any action.

8.3 NHS Trust Development Authority (TDA)
8.3.1 The Legal Services Manager will report to the NHS Trust Development Authority (TDA) details of any new claims that may fall within their responsibility (i.e. claims that pre-date 1st April 1993).

8.3.2 TDA claims should be forwarded to NHS Trust Development Authority, Southside, 9th Floor, 105 Victoria Street, London, SW1E 6QT.

8.4 Eastern Cheshire Clinical Commissioning Group (ECCCG)
8.4.1 The Legal Services Manager will report to the ECCCG details of any new claims that may fall within their responsibility (i.e. former Cheshire East Community Health claims that pre date 1st April 2011).

8.4.2 ECCCG claims should be forwarded to:
Eastern Cheshire Clinical Commissioning Group, West Wing, New Alderley House, Macclesfield District General Hospital, SK10 3BL In the event that the claim is the responsibility of another CCG the matter will be redirected accordingly.

8.5 Coroner’s Office
8.5.1 The Legal Services Manager will be the link between the Trust and the Coroner’s Office for the purpose of investigating Coroner’s Inquests. Such deaths may become the subject of a claim and due consideration should be given to whether or not a claim is likely to follow at as early a stage as possible.
8.5.2 The Cheshire Coroner's Office is at The East Annexe, Town Hall, Sankey Street, Warrington, Cheshire, WA1 1UH (Tel: 01925 442471).

8.6 Claimant and Defence Solicitors
8.6.1 The Legal Services Manager will liaise with the claimant’s solicitors throughout the life of a claim unless that role has been formally taken over by the claims handler at the NHSLA.
8.6.2 The NHSLA is responsible for instructing defence (Panel) solicitors to act on behalf of the Trust. The Legal Services Manager will liaise with the Panel Solicitors once this formal instruction has taken place.
8.6.3 The Trust’s nominated Panel Solicitors is Hill Dickinson LLP, No. 1 St Paul’s Square, Liverpool, L3 9SJ (Tel: 0151 600 8000) although the NHSLA reserve the right to instruct other solicitors on their panel.

8.7 Public Relations
8.7.1 Any press enquiries regarding legal cases must be forwarded to the NHS Litigation Authority (NHSLA).
8.7.2 Any press statements must be agreed with the NHSLA prior to release.
8.7.3 The Legal Services Manager and the Trust’s Marketing & Communications Manager (tel: 01625 661184) will be responsible co-ordinating any press enquiry, ensuring that they liaise with the NHSLA regarding claims that may be the focus of press or media interest.

9 Learning from Experience
9.1 The Trust is committed to learning from untoward events, including those which result in a claim and to taking steps to reduce the likelihood of repetition of events which have caused harm.
9.2 A systematic approach to learning from untoward events is adopted through the Trust’s integrated risk management process. This allows for early identification of incidents through the incident reporting system and complaints process, initial root cause analysis of serious or frequently reported incidents.
9.3 If risk management issues are identified in the course of the investigation of a claim they will be shared with the Head of Safety, Risk & Resilience for dissemination in the organisation as appropriate.
9.4 Panel solicitors (instructed by the NHSLA) provide reports on claims which identify the risk issues identified from particular claims. These are sent to the Legal Services Manager/ Legal Services Team Leader for action. The Legal services Manager/ Legal Services Team Leader will forward the details to the Head of Safety, Risk & Resilience for onward management.

10 Supporting Staff
10.1 The Trust acknowledges that staff whose actions may have led to another person making a claim are often upset and distressed and may need support whilst any investigations are carried out and if litigation and/or inquests are pending and ongoing. It is crucial that individuals are offered support where necessary (the policy Supporting Staff after a Stressful or Traumatic Event provides more details).
10.2 The details of a claim will be investigated as quickly as possible to assess if any immediate action needs to be taken to protect patients, staff or Trust property or to secure information that might be subsequently lost.
10.3 Staff need to be assured that it is not the intention of the claims process to apportion blame. They should be assured that the intention is to protect the Trust’s position, limit further damage both to patients and staff and to take steps to learn from the event and prevent reoccurrence.

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

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

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

10.6 In circumstances where a conflict of interest exists between the Trust and a member of staff, staff will be encouraged to seek external advice from their professional group, or their Union Representative.

10.7 Staff may also seek external legal advice from groups such as the Medical Defence Union or Medical Protection Society.

10.8 The Legal Services Manager will meet with individuals, keep staff updated about the progress of the claim and provide guidance on the preparation of statements as required.

11 Measuring Performance
The effectiveness of this policy will be monitored via the following Key Performance Indicators (KPI’s):

11.1.1 Situation: 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).

11.1.2 Action Required: Report to the NHSLA irrespective of whether or a claim has been notified or a disclosure request received.

11.1.3 Timescale: As soon as possible but no later than 3 months from when you become aware of the matter.

11.2.1 Situation: 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.

11.2.2 Action Required: Report to the NHSLA

11.2.3 Timescale: As soon as possible but no later than 1 month from receipt of the disclosure request

11.3.1 Situation: Letter of Claim served; and/or Part 36 offer received; and/or Proceedings received.

11.3.2 Action Required: Report to the NHSLA using Claim Report Form.
11.3.3 **Timescale**: Within 24 hours of receipt with completed documentation to follow within 2 weeks.

**12 Monitoring**
Performance and claims activity will be reported to the Risk-Management Sub Committee.

**13 Review**
This policy will be reviewed every three years by the Legal Services Manager or sooner if required, e.g. to reflect changes to the NHSLA schemes.
Equality Analysis (Impact assessment)

1. What is being assessed?

Claims Handling Policy

Details of person responsible for completing the assessment:
- John Glynn
- Legal Services Manager
- Governance

State main purpose or aim of the policy, procedure, proposal, strategy or service: (usually the first paragraph of what you are writing. Also include details of legislation, guidance, regulations etc. which have shaped or informed the document)

East Cheshire NHS Trust is committed to effective and timely investigation and response to any claim which includes allegations of clinical negligence or personal injury. This policy sets out the Trusts intentions in managing all claims including following the requirements of and noting the recommendations of the NHS Litigation Authority in the management of claims.

2. Consideration of Data and Research

To carry out the equality analysis you will need to consider information about the people who use the service and the staff that provide it.

2.1 Give details of RELEVANT information available that gives you an understanding of who will be affected by this document

Cheshire East (CE) covers Eastern Cheshire CCG and South Cheshire CCG. Cheshire West & Chester (CWAC) covers Vale Royal CCG and Cheshire West CCG. In 2011, 370,100 people resided in CE and 329,608 people resided in CWAC.

Age: East Cheshire and South Cheshire CCG’s serve a predominantly older population than the national average, with 19.3% aged over 65 (71,400 people) and 2.6% aged over 85 (9,700 people).

Vale Royal CCGs registered population in general has a younger age profile compared to the CWAC average, with 14% aged over 65 (14,561 people) and 2% aged over 85 (2,111 people).

Since the 2001 census the number of over 65s has increased by 26% compared with 20% nationally. The number of over 85s has increased by 35% compared with 24% nationally.

Race:
- In 2011, 93.6% of CE residents, and 94.7% of CWAC residents were White British
- 5.1% of CE residents, and 4.9% of CWAC residents were born outside the UK – Poland and India being the most common
- 3% of CE households have members for whom English is not the main language (11,103 people) and 1.2% of CWAC households have no people for whom English is their main language.

**Gender:** In 2011, c. 49% of the population in both CE and CWAC were male and 51% female. For CE, the assumption from national figures is that 20 per 100,000 are likely to be transgender and for CWAC 1,500 transgender people will be living in the CWAC area.

**Disability:**
- In 2011, 7.9% of the population in CE and 8.7% in CWAC had a long term health problem or disability
- In CE, there are c.4500 people aged 65+ with dementia, and c.1430 aged 65+ with dementia in CWAC. 1 in 20 people over 65 has a form of dementia
- Over 10 million (c. 1 in 6) people in the UK have a degree of hearing impairment or deafness.
- C. 2 million people in the UK have visual impairment, of these around 365,000 are registered as blind or partially sighted.
- In CE, it is estimated that around 7000 people have learning disabilities and 6500 people in CWAC.
- Mental health – 1 in 4 will have mental health problems at some time in their lives.

**Sexual Orientation:**
- CE - In 2011, the lesbian, gay, bisexual and transgender (LGBT) population in CE was estimated at 18,700, based on assumptions that 5-7% of the population are likely to be lesbian, gay or bisexual and 20 per 100,000 are likely to be transgender *(The Lesbian & Gay Foundation).*
- CWAC - In 2011, the LGBT population in CWAC is unknown, but in 2010 there were c. 20,000 LGB people in the area and as many as 1,500 transgender people residing in CWAC.

**Religion/Belief:**
The proportion of CE people classing themselves as Christian has fallen from 80.3% in 2001 to 68.9% in 2011 and in CWAC a similar picture from 80.7% to 70.1%, the proportion saying they had no religion doubled in both areas from around 11%-22%.
- **Christian:** 68.9% of Cheshire East and 70.1% of Cheshire West & Chester
- **Sikh:** 0.07% of Cheshire East and 0.1% of Cheshire West & Chester
- **Buddhist:** 0.24% of Cheshire East and 0.2% of Cheshire West & Chester
- **Hindu:** 0.36% of Cheshire East and 0.2% of Cheshire West & Chester
- **Jewish:** 0.16% of Cheshire East and 0.1% of Cheshire West & Chester
- **Muslim:** 0.66% of Cheshire East and 0.5% of Cheshire West & Chester
- **Other:** 0.29% of Cheshire East and 0.3% of Cheshire West & Chester
- **None:** 22.69% of Cheshire East and 22.0% of Cheshire West & Chester
- **Not stated:** 6.66% of Cheshire East and 6.5% of Cheshire West & Chester

**Carers:** In 2011, nearly 11% (40,000) of the population in CE are unpaid carers and just over 11% (37,000) of the population in CWAC.

**2.2 Evidence of complaints on grounds of discrimination:** (Are there any complaints or concerns raised either from patients or staff (grievance) relating to the policy, procedure, proposal, strategy or service or its effects on different groups?)

| None |
2.3 Does the information gathered from 2.1 – 2.3 indicate any negative impact as a result of this document?

No

3. Assessment of Impact

Now that you have looked at the purpose, etc. of the policy, procedure, proposal, strategy or service (part 1) and looked at the data and research you have (part 2), this section asks you to assess the impact of the policy, procedure, proposal, strategy or service on each of the strands listed below.

RACE:
From the evidence available does the policy, procedure, proposal, strategy or service affect, or have the potential to affect, racial groups differently? Yes ☐ No X

Explain your response:
The Claims Handling Policy will treat all claimants in an equitable manner irrespective of race. The interpretation policy will be followed if required.

GENDER (INCLUDING TRANSGENDER):
From the evidence available does the policy, procedure, proposal, strategy or service affect, or have the potential to affect, different gender groups differently? Yes ☐ No X

Explain your response:
The Claims Handling Policy will treat all claimants in an equitable manner irrespective of the way they present.

DISABILITY:
From the evidence available does the policy, procedure, proposal, strategy or service affect, or have the potential to affect, disabled people differently? Yes ☐ No X

Explain your response:
The Claims Handling Policy will treat all claimants in an equitable manner irrespective of any disability. If there are communications requirements then the trust’s interpretation and translation policy will be followed and reasonable adjustments made.

AGE:
From the evidence available does the policy, procedure, proposal, strategy or service affect, or have the potential to affect, age groups differently? Yes ☐ No X

Explain your response:
The Claims Handling Policy will treat all claimants in a lawful manner. Claimant’s under 16 years of age may be represented by a parent or other adult legal representative.

LESBIAN, GAY, BISEXUAL:
From the evidence available does the policy, procedure, proposal, strategy or service affect, or have the potential to affect, lesbian, gay or bisexual groups differently? Yes ☐ No X

Explain your response:
The Claims Handling Policy will treat all claimant’s in an equitable manner irrespective of the way they present.

RELIGION/BELIEF:
From the evidence available does the policy, procedure, proposal, strategy or service affect, or have the potential to affect, religious belief groups differently? Yes ☐ No X

Explain your response:
The Claims Handling Policy will treat all claimants in an equitable manner irrespective of their religion/belief.

**CARERS:**
From the evidence available does the **policy, procedure, proposal, strategy or service** affect, or have the potential to affect, carers differently?   Yes ☐ No x

**Explain your response:**
For small claims falling outside the NHSLA arrangements, carers will be involved as appropriate and when required.

**OTHER: EG Pregnant women, people in civil partnerships, human rights issues.**
From the evidence available does the **policy, procedure, proposal, strategy or service** affect, or have the potential to affect any other groups differently?   Yes ☐ No x

**Explain your response:**
The Claims Handling Policy will treat all claimant’s in an equitable manner irrespective of the way they present.

4. Safeguarding Assessment - CHILDREN

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<tbody>
<tr>
<td>a. Is there a direct or indirect impact upon children?</td>
<td>Yes ☐ No x</td>
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<tr>
<td>b. If yes please describe the nature and level of the impact (consideration to be given to all children; children in a specific group or area, or individual children. As well as consideration of impact now or in the future; competing / conflicting impact between different groups of children and young people:</td>
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<tr>
<td>c. If no please describe why there is considered to be no impact / significant impact on children</td>
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The Claims Handling Policy does not relate to child safeguarding issues.

5. Relevant consultation

Having identified key groups, how have you consulted with them to find out their views and that the made sure that the **policy, procedure, proposal, strategy or service** will affect them in the way that you intend? Have you spoken to staff groups, charities, national organisations etc.?

The Claims Handling Policy is created in line with legislation in England in Wales, and the policy is a reflection of statutory protocols.

6. Date completed: 30th December 2015   Review Date: September 2018

7. Any actions identified: Have you identified any work which you will need to do in the future to ensure that the document has no adverse impact? NO

<table>
<thead>
<tr>
<th>Action</th>
<th>Lead</th>
<th>Date to be Achieved</th>
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8. Approval – At this point, you should forward the template to the Trust Equality and Diversity Lead lynbailey@nhs.net

Approved by Trust Equality and Diversity Lead: 

Date: 14.1.16