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Bwrdd Iechyd Prifysgol
Bae Abertawe

Swansea Bay University
Health Board

CLAIMS MANAGEMENT POLICY

Clinical Negligence and Personal Injury

This policy has been screened for relevance to equality. No potential negative impact has been identified so a full equality impact assessment is not required.

This policy has been updated to reflect changes in management structures in the Health Board and to give greater detail on arrangements to monitor the management of clinical negligence and personal injury claims made against the Health Board.

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1. POLICY STATEMENT

- 1.1 This document describes the Policy of the Swansea Bay University Health Board (“the Health Board”) for the management of clinical negligence and personal injury claims made against the Health Board.
- 1.2 Both the human costs of things going wrong and the financial costs of providing redress are powerful incentives for effective risk management. It is acknowledged that funds that are spent on addressing and compensating could otherwise contribute to the continuous improvements of healthcare services and working environments. Therefore, this Policy forms an integral part of the Health Board’s Risk Management Strategy and is intrinsically linked into the Health Board’s systems for managing and learning from incidents and concerns.
- 1.3 The Health Board aims to deal with all claims made against it proactively, in an equitable, efficient and timely manner. In accordance with the Civil Procedure Rules 1999, the Health Board will deal with each case on its own merits, taking advice from its legal advisors and others, as appropriate.
- 1.4 The Health Board will adopt a common and standardised approach in dealing with litigation claims for both clinical negligence and personal injury. The Health Board aims to gather all evidence as quickly as possible and, where liability is admitted, will seek to negotiate settlement in the shortest possible time.
- 1.5 The Health Board will make every effort to resolve a claim before the issue of court proceedings and will explore the option of alternative dispute resolution methods when appropriate. Where formal legal action or Court proceedings are unavoidable, the Health Board will ensure that it conducts its defence of the Claim in a fair and timely manner, ensuring that legal costs are incurred appropriately and proportionately.
- 1.6 The Health Board acknowledges the importance of the claims management process within its organisation and will ensure that the process and appointed claims managers have sufficient seniority and profile as required by the Welsh Risk Pool (see WRP Standard for Concerns and Compensation Claims Management hereinafter known as the “the WRP Standard”). The Health Board and relevant nominated committees will support and promote these objectives including the provision of support through an approved escalation procedure set out in the Health Board’s Procedure for Handling Legal Claims.
- 1.7 The Health Board will comply with the Pre-Action Protocols laid down by the Civil Procedure Rules in dealing with all legal claims ensuring a constructive and open approach to claims that reduces delays and costs and the need for formal legal proceedings.
- 1.8 The Health Board is committed to learning lessons from claims to ensure the continued improvement in standards of patient and staff safety and services. The Legal Services Managers/Officers will support the Directors, key

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.

2. INTRODUCTION

2.1 Section 8 of the Welsh Government's "Guidance on Dealing with Concerns about the NHS from 1 April 2011" (hereinafter referred to as "The Guidance") which replaces WHC (97) 17 "Clinical negligence and personal injury litigation claims handling allows Responsible Bodies to manage and settle concerns for financial compensation in relation to all episodes of clinical negligence and personal injury up to the sum of £1 million. Beyond this limit settlement requires approval from the Welsh Government. This authority is given subject to certain conditions including the requirement that each trust/health authority has a clear policy, approved by the Board, on the handling of clinical negligence and personal injury claims. The Guidance supports and supplements the National Health Services (Concerns, Complaints and Redress Arrangements) (Wales), Regulations.

2.2 The Health Board is committed to the effective investigation and response to any claim which includes allegations of clinical negligence or personal injury. The Health Board adopts the standards contained in Section 8 of the Guidance and will follow the requirements and procedures of the Welsh Government and the Welsh Risk Pool. The Welsh Risk Pool is a voluntary scheme enabling the Local Health Boards to pool the costs of settlements of claims subject to the Welsh Government's 'top slicing arrangements.'

The Policy does not apply to claims for reimbursement from the Pool relating to damage to Health Board property, claims under the Human Rights Act 1998, claims for unlawful imprisonment arising from the activities of Mental Health services and employment issues.

2.3 The Health Board has a legal duty of care towards those it treats, together with members of the general public and its staff. People who consider they have suffered harm from a breach of this duty can make a claim for compensation and damages against the Health Board.

2.4 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 materially contributed to the harm caused; and
- that there were consequences and effects of the harm.

If a claim is successful, then the injured person has a right to compensation for that harm, the amount of which is assessed in accordance with the principles of common law and statute.

- 2.5 The Limitation Act 1980 requires that claims be made within three years of the date of the incident or three years from the date a claimant became aware that he/she had suffered from an episode of negligence. With minors, the three-year limitation period becomes effective once they have reached the age of 18. However, there are no time limits for people with a disability who cannot manage their own affairs. Claims exceeding the three-year limitation period can, however, still be brought against the Health Board at the discretion of the Court.
- 2.6 The management and settlement of claims is often an expensive, lengthy and complex process and was examined by Lord Woolf 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.

3. DEFINITIONS

The definitions for clinical negligence and personal injury negligence are:

3.1 Clinical/Medical Negligence

“A breach of duty of care by members of the health care professions employed by NHS bodies or by others consequent on decisions or judgements 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.”

3.2 Personal Injury

“Any disease or impairment of a person’s physical or mental health condition.”

4. RESPONSIBILITY FOR CLAIMS/SCOPE OF POLICY

- 4.1 Subject to the provisions of the Limitation Act 1980, the Health Board will be responsible for managing all claims arising from Secondary Care services, GP Out of Hours Services, nursing and medical services provided to HMP Swansea and Health Board managed GP services and Trainee Dental Unit which are currently under its management. **The Health Board will also be responsible for General Medical Practical Indemnity (GMPI) claims from 1st April 2019 in relation to incidents that happen on or after 1st April 2019.**
- 4.2 Claims arising from the treatment provided by contracted practitioners are not indemnified and do not form part of the Welsh Risk Pool Scheme.
- 4.3 From November 2013 claims arising from the treatment provided by sessional GPs within the scope of the NHS indemnity will be managed by the Health Board.

- 4.4 The Health Board will comply with the requirements of the Welsh Risk Pool in notifying other organisations and bodies of claims arising from service provision prior to the formation of the **previous organisations: Abertawe Bro Morgannwg University Health Board; Bro Morgannwg NHS Trust; and Swansea NHS Trusts** but will retain day to day management of such claims unless instructed otherwise. However, the Health Board has no delegated authority to make admissions of liability in respect of such claims or authorise payments of damages or costs. In relation to the Bridgend boundary changes, claims received after the 1st April 2019 will be the responsibility and managed by Cwm Taf Morgannwg University Health Board.

In accordance with the Claims Procedure and the relevant WRP guidance, liaison will take place with Powys Teaching Health Board or their nominated claims handlers to ensure appropriate authorities and reimbursement of outlay is obtained.

5. ROLES AND RESPONSIBILITIES

- 5.1 The **Chief Executive** has overall responsibility for claims management and will ensure there is a designated Executive Director with clear responsibility for claims management issues.
- 5.2 The **Medical Director** is the designated Executive Director with responsibility for claims management issues and will ensure effective management of claims within the Health Board and will keep the Board informed of all significant issues pertaining to claims.
- 5.3 The three clinical Executive Directors (Executive Medical Director, Director of Nursing & Patient Experience & Director of Therapies) are jointly responsible for ensuring lessons are learned from settled claims and quality and safety. They will provide leadership and support in achieving the aims of this policy.
- 5.4 The **Head of Patient Experience, Risk and Legal Services** will be responsible for the control and administration of the entire Datix database/ensuring its consistent use across all modules (Incidents, Feedback, Redress, Claims and Inquests, Risk Management and Patient Experience) for purposes of learning lessons and monitoring action plans, and any further responsibilities that will be more fully described in the Claims Management Procedure.
- 5.5 The Health Board is committed to employing a dedicated **Claims Manager** who holds or who is working towards relevant qualifications in claims management and who can demonstrate sufficient experience in the management of clinical negligence and personal injury claims. The identity and full responsibilities of this individual will be set out more fully in the Claims Management Procedure but as a minimum:
- Will be required to demonstrate on-going updating and continuing professional development in the area of claims management.

- Be responsible for implementing this policy corporately and will be given sufficient profile and seniority within the Health Board.
- The Claims Manager is the Lead Officer for the Welsh Risk Management Standard for Claims Management and is responsible for self-assessment against these standards.
- For the purpose of this policy the **Head of Patient Experience, Risk and Legal Services** is the dedicated **Claims Manager**, who delegates day to day responsibility of the claims to the Deputy Head of Risk and Legal Services.

5.6 **Service Directors** will ensure:

- effective and practical local arrangements for the implementation of this policy;
- appropriate cross-**Service Group** co-ordination and liaison to achieve compliance with this policy, particularly in relation to learning and sharing lessons and linkages between concerns, claims and incidents, with any further responsibilities more fully set out in the Claims Management Procedure.

5.7 **Service Group Medical Directors, Service Group Nurse Directors, Service Group Directors** are responsible for ensuring effective and practical working arrangements are in place within the **Service Group** to ensure implementation of and compliance with this policy and that these are fully communicated to staff, with their specific responsibilities more fully set out in the Claims Management Procedure.

5.8 The **Medical Director, Director of Nursing & Patient Experience and Director of Therapies and Health Sciences** are responsible for quality & safety issues and ensuring that medical, nursing and professions allied to healthcare professional issues identified through clinical negligence claims, are appropriately examined and addressed. Furthermore, each Executive Lead will be responsible for authorising a breach of duty to be admitted in relation to breaches in the standard of care relating to their respective profession.

5.9 The **Director of Finance** has Executive responsibility for Health & Safety and will ensure issues arising out of personal injury claims are appropriately examined and addressed.

5.10 The **Director of Finance** is responsible for maintaining the Losses and Special Payments Register (LaSPAR).

5.11 The **Assistant Director of Health & Safety** is responsible for authorising breaches of duty for personal injury claims.

- 5.12 The Health Board will employ competent **Legal Services Managers/Officers** who hold, or who are working towards, relevant qualifications at Degree Level and/or above, in Claims Handling and Risk Management, and who can demonstrate sufficient experience, specialised knowledge and expertise in the management of Clinical Negligence and Personal Injury claims.
- 5.13 The Legal Services Managers/Officers will be required to demonstrate on-going updating and continuing professional development in the area of claims management.
- 5.14 The Health Board will ensure that the Legal Services Managers/Officers are given sufficient profile and seniority within the Health Board to achieve the objectives of the Putting Things Right Guidance (2013) Part 8. The Health Board will support the Legal Services Managers/Officers in the furtherance of their objectives.
- 5.15 The Legal Services Managers/Officers can demonstrate direct access to the Chief Executive and/or Executive Team, as necessary to achieve the objectives the Putting Things Right Guidance (2013) Section 8 for effective claims management.
- 5.16 The Health Board authorises the development of an appropriate escalation procedure to which it will give its full support to highlight the profile of the claims management process and its support for the Legal Services Team. The escalation procedure is designed to ensure that all members of staff throughout the Health Board acknowledge the importance of the Claims Management process and Board support thereof and will provide all necessary support to the furtherance of the objectives set out in this policy to ensure that claims are managed proactively, equitably and in an efficient and timely manner.
- 5.17 The Legal Services Managers/Officers will ensure that all members of staff and/or their line managers involved in a claim are kept informed of the progress and outcome of the claim.
- 5.18 **All staff** are encouraged to report adverse incidents, including those that may lead to claims for compensation, in line with the Health Board's promotion of an open and honest, blame free culture. Staff also have a duty towards the Health Board in the investigation and, where appropriate, defence of all claims and will assist all claims staff, as necessary during the claims management process to include the provision of written and oral testimony as appropriate.
- 5.19 The **Quality & Safety Governance Group ("Q&SGG")** reports to the **Quality & Safety Committee**. Its remit in relation to claims includes examination of serious cases, review of investigation outcomes, the examination of aggregated claims and trends, commissioning and approval of risk reduction/service improvement action plans and the monitoring of completion and effectiveness of those action plans.

- 5.20 The **Audit Committee** provides an assurance to the Board on financial management systems within the Health Board, which includes the financial management of claims and receives regular reports from the Director of Finance on the losses and special payments.
- 5.21 Approval of this strategic Claims Management Policy will rest with the Board although approval of the Claims Management Procedure and subsequent review and revisions of this Policy will be delegated by the Board to the Q&SGG.

6. DELEGATED LIMITS

Delegation of Out of Court Settlement

- 6.1 The Health Board acknowledges that the Welsh Government has delegated its responsibility for the settlement of claims to a limit of £1 million to the Health Board and that the Health Board continues to exercise this discretion subject to satisfaction with minimum requirements and standards:
- That it adopts a clear policy for the handling of claims which satisfies the Putting Things Right Guidance (2013) Part 8.
 - That the requirements the Putting Things Right Guidance (2013) Part 8 form the basis of the procedure for the day to day management of claims.
 - That a **Case Management Report (CMR)** is completed for every settlement authorised by the Health Board over £25,000 but within the delegated limit and that the Health Board can demonstrate that remedial action has been taken.

Internal Delegated Limits

- 6.2 The Health Board has formal delegated responsibility from the Welsh Government for the management of clinical negligence and personal injury claims valued up to £1,000,000.
- 6.3 The levels of delegated authority within the Health Board are those contained within the Scheme of Delegation of the Health Board's Standing Financial Instructions.

Payment Level @	Deputy Legal Services Manager	Legal Services Manager	Deputy Head of Risk & Legal Services	Head of Patient Experience Risk & Legal Services	Executive Directors	Chief Executive/ Deputy Chairman	Board
Up to £5K	✓	✓	✓	✓	✓	✓	✓
Up to £25K		✓	✓	✓	✓	✓	✓
Up to £50K			✓	✓	✓	✓	✓
Up to £75K				✓	✓	✓	✓
Up to £250K					✓	✓	✓
Up to £750K						✓	✓
Up to £1m							✓

- 6.4 In situations where a decision is necessary and it is not possible to comply with the Scheme of Delegation limits because of time constraints, the Chief Executive, or nominated Executive Director, will contact the Health Board's Chairperson, or nominated Non-Officer Member and recommend a course of action (Chairperson's Action). Any action taken under Chairperson's Action will be reported to the next available meeting of the Board, seeking retrospective approval.

7. USE OF LEGAL ADVISORS

- 7.1 The Health Board will use legal advisors in the defence or settlement of significant clinical negligence and personal injury claims. Small to moderate value claims of moderate complexity, particularly where the injured person does not have the benefit of legal representation, may be managed in-house by the Health Board's Claims Manager under the Redress Regulations. The Health Board's contracts on a commercial basis for the management of personal injury claims. This contract will be reviewed from time to time to ensure continuing quality and value for money. Clinical negligence claims will be managed by Legal and Risk Services.
- 7.2 Where external legal advice is sought, the Health Board will retain the responsibility to direct its solicitors in respect of liability admission, defence, settlement and general tactics. The Health Board, however, will always take due account of qualified legal advice 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 defence.
- 7.3 For claims managed in-house, advice will be provided by the Health Board's Legal Services Team. In all such cases, advice will be recorded on the case file, satisfying the same requirements for the provision of legal advice as set out in paragraph 7.2 above.
- 7.4 The decision to settle a claim or to continue with its defence will be on the basis of legal advice of Counsel and/or Legal and Risk Services, in conjunction with the Legal Services Team and **Service Group** Directors. In the event of consideration being given to run a claim to trial, the Executive Team will be notified via the Executive Quality & Safety Hub meeting and a trial briefing issued.

8. REPORTING REQUIREMENTS

- 8.1 The Health Board delegates its responsibilities to the Quality & Safety Committee and Audit Committee as the duly authorised committees. The Committees will receive and review quarterly progress reports on the

management and status of claims against the Health Board. The claims report will include information on:

- The Health Board's claims profile and claims management record
- Key issues and/or major developments affecting the Health Board
- Number of claims
- Aggregate value of claims in progress
- Details of any major claims
- Progress and likely outcome of significant ongoing claims including expected settlement dates
- Value of claims settled and final outcomes
- Relevant trends
- Information regarding remedial action as appropriate.

8.2 The Quality and Safety Committee will receive and approve the Annual Patient Experience Claims and Concerns Report reporting on comparative issues at the end of the relevant financial year.

8.3 It is acknowledged that where a claim has been identified as a Patient Safety Incident, **but during the course of the investigation, it is identified that it was not previously reported through the incident reporting process**, the handler will ensure that the **Service Group** complete a retrospective incident form on Datix. The National Patient Safety Agency for the National Reporting and Learning System will be sent the incident report retrospectively as appropriate following a review.

8.4 The reporting requirements relating to the reimbursement process managed by the Welsh Risk Pool are set out in Paragraph 16 as follows.

8.5 The reporting requirements to the Welsh Government are set out in Paragraph 12 as follows.

9. CLAIMS MANAGEMENT PROCEDURE

9.1 **The Health Board will ensure that a claims management procedure is developed which supports and embraces the objectives contained in this policy and in Section 8 of The Guidance.**

9.2 The Claims Management Procedure will set out the processes and procedures for the day to day practical management of claims and associated matters.

9.3 The Board delegates the authority for the approval of the Claims Management Procedure to the Audit Committee.

10. INVOLVEMENT OF FRONT LINE STAFF

10.1 The Health Board recognises that 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 that claim. All staff are required to fully and openly co-operate with the investigation of any legal claims and to comply with this Policy and the Claims Management Procedure.

- 10.2 Once a claim has been reported, the Legal Services Team or the Health Board's legal advisors will establish an objective account of the original incident at the earliest available opportunity, taking advice from colleagues where appropriate.
- 10.3 Unless there are exceptional circumstances, any member of staff asked to do so should provide the Legal Services Team or Legal Advisor with written comments and information regarding the investigation of the relevant claim in a timely manner. The Health Board will support an escalation procedure to be contained in the Health Board's Claims Management Procedure to secure this objective.
- 10.4 The Health Board 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 on behalf of the Health Board.
- 10.5 The Legal Services Team will ensure that the **Service Group** is informed of the outcome of all claims affecting their service area and that all relevant managers and witnesses are kept informed of pertinent developments throughout the course of a claim.
- 10.6 The Health Board will take full responsibility for managing and, where appropriate, settling claims in clinical negligence and personal injury cases meeting all its financial obligations and will not seek to recover any costs from health professionals. In very exceptional cases, where the health professional was legally found to be acting outside of his/her remit the matter will be referred to the appropriate Executive Director.

11. NUISANCE CLAIMS

- 11.1 The Health Board will not settle claims of doubtful merit, however small, purely on a 'nuisance' value basis. Similarly, claims will not be inappropriately defended.
- 11.2 The decision to settle a claim will always be based upon an assessment of the Health Board's legal liability and the risks and costs associated with the defence of that claim, including the prospects of recovering those costs in the event that the defence is successful.

12. REPORTING OF CLAIMS TO WELSH GOVERNMENT

- 12.1 Novel, Contentious or Repercussive Claims

The Legal Services Team will monitor the nature and type of claims received to highlight any claims which are considered to be novel, contentious or repercussive. In such cases the Legal Services Managers/Officers will liaise with the designated Solicitors/Legal Advisors, to ensure that the Welsh Government are duly made aware or advised. The Head of Patient Experience, Risk and Legal Services or his/her deputy will be kept informed throughout.

12.2 Claims Exceeding the Delegated Authority

Any claims with damages estimated to exceed the Health Board's delegated authority of £1 million are to be reported to Welsh Government and prior approval is obtained in advance of liability being conceded and the claim being settled, either by the Health Board's legal advisors or by the Legal Services Managers as appropriate.

13. DATABASES

13.1 The Health Board will maintain two databases:

13.2 Datix

The Health Board's claims data-base will contain the information prescribed in the Claims Management Procedure.

13.3 LaSPaR

The Losses and Special Payments Register (LaSPaR) is a computerised database introduced by the National Assembly for Wales for actioning write-offs or special payments approval. The main objectives of LaSPaR are to:

- Ensure that health bodies monitor all aspects of losses and special payments, from initial registration to final outcome, on a case by case basis;
- Allow health bodies and the National Assembly to identify settlement/claimant costs, provisions, and defence or other administration costs provisions, and to action any subsequent adjustments; and
- Ensure that all payments and income recoveries are identified separately and that analyses can be performed on all transactions.

13.4 All clinical negligence and personal injury claims will be entered onto both databases. Other losses and special payment details will be similarly recorded.

13.5 The Health Board will ensure that patient and staff confidentiality is maintained.

14. LINKS BETWEEN CLAIMS, CONCERNS, INCIDENTS AND OTHER RISK INFORMATION

14.1 The Health Board recognises the need for close connections between risk management, concerns, incidents and the management of claims. It

appreciates the need for close and co-operative working between these functions and will ensure that appropriate linkages are in place to facilitate this objective.

Linkages

14.2 The primary means of ensuring practical linkages between incidents, concerns and claims will be via interrogating the Health Board's Datix modules. Such information will be available to the Legal Services Managers/Officers, to include:

- Details of the potential claimant
- Date and details of incident/outcome from which the claim might arise
- Names and contact details of relevant members of staff involved in or witnessing the incident
- Statements by such relevant members of staff and witnesses
- Relevant documentation.

14.3 The Q&SGG will be the appropriate forum for the lead members of staff for concerns, incidents, risk and claims to meet on a regular basis to ensure the identification of any trends and remedial action that may be required. Appropriate and relevant staff will then implement any recommendations arising from this forum.

14.4 The DATIX system identifies where a potential claim has previously been reported as an incident or concern. This facilitates the gathering of information to comply with the relevant Pre-Action Protocols.

14.5 The Health Board will endeavour to produce appropriate reports combining information on concerns, claims, risk and incidents to relevant groups to enable information to be cascaded through all levels of the organisation.

15. LEARNING LESSONS FROM CLAIMS AND PREVENTING CLAIMS FROM INCIDENTS AND CONCERNS

15.1 The Health Board is committed to learning lessons from claims, concerns and adverse incidents, ensuring that remedial actions are implemented and monitored following every claim where admissions of liability have been made or where failings were identified during the course of investigation.

15.2 The Claims Manager will identify the potential for 'learning lessons' from all claims. The Health Board will ensure that a formal process and procedure to support the learning of lessons, monitoring of implementation of lessons learned, evaluation of the efficacy of lessons learned and thereafter the auditing of each component, is developed and is set out in its Claims Management Procedure or associated document.

15.3 In accordance with the Health Board Risk Management Strategy, lessons are also learned from wider experiences, including the experiences of other Health Boards, feedback from the Welsh Risk Pool, feedback from the

National Patient Safety Agency, legal developments/case law, other agencies/bodies and benchmarking. These will also generate improvement strategies aimed at learning lessons, changing practice and reducing future risk.

- 15.4 The Concerns Investigators will identify the potential for the use of alternative dispute resolution before considering litigation. In addition, the Health Board is committed to ensuring the NHS (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 is used to ensure that patients receive, where appropriate, an apology and a full explanation of what went wrong to reduce the potential for complainants to take legal action to achieve such a remedy.
- 15.5 The Legal Services Managers/Officers will produce a Learning from Events Report and put arrangements in place for an associated Action Plan for all claims and produce a Case Management Report for claims exceeding the Health Board's excess of £25,000. This will be used as the basis for learning, monitoring and evaluating the efficacy of the lessons learned from claims together with the necessary data entry into Datix.

16. LIAISON WITH THE WELSH RISK POOL

- 16.1 The Welsh Risk Pool is the risk pooling scheme run for the benefit of members of NHS Wales and it is funded through the Welsh Government by a top slicing arrangement.
- 16.2 The Health Board is assessed annually against the Welsh Risk Pool Standard for Concerns and Compensation Claims Management.
- 16.3 The Health Board will comply with the various rules and procedures of the Welsh Risk Pool. The Claims Manager will ensure the Health Board's adherence to the same.
- 16.4 From the 1st October 2019 the Welsh Risk Pool changed the claims reimbursement procedure. The trigger is now from when the Health Board makes a decision to settle a case (i.e Admission made by Health Board, Offer to settle made by HB, Offer to settle accepted by HB, Damages awarded at Trial) and the Health Board has 60 days from the decision to settle a case, to submit a Learning from Events Report to the Welsh Risk Pool. The Health Board is required to submit, electronically via NWSSP WRPS Claims & Reimbursement email, a Learning from Events Report and a U1 form. The Learning from Events Report needs to be approved by the Welsh Risk Pool in order to obtain financial reimbursement.
- 16.5 The Health Board has a period of four calendar months from the final financial payment on the case to request reimbursement from the Welsh Risk Pool. In order to be reimbursed by the Welsh Risk Pool, the Health Board is required to submit, electronically via NWSSP WRPS Claims & Reimbursement e-mail, U1 form, Costs Schedule, Case Management Report and approved Learning

from Events Report in accordance with the Welsh Risk Pool Services Claims Reimbursement Procedure.

- 16.6 The Health Board acknowledges that reimbursement can be refused, delayed or withheld by the Welsh Risk Pool if the Health Board has failed:
- To meet with the relevant minimum standard issued by the Welsh Risk Pool
 - To comply with the requirements of the procedures for submitting claims for reimbursement
 - To comply with the various technical and briefing notes published by the Welsh Risk Pool.
- 16.7 For claims which are settled below £25,000, the Health Board will complete a Learning from Event Report (LFER) (previously known as an Appendix T) which will give details of the claim and lessons learned.
- 16.8 The Health Board acknowledges that the Welsh Risk Pool will periodically undertake reviews of claims managed by the Health Board. The Health Board will ensure the co-operation of its members of staff with such reviews through the development of a formal claims review procedure to be contained in the Claims Management Procedure.

17. AUDIT

17.1 Claims management practices and a selection of claims submitted to the Welsh Risk pool for reimbursement are audited annually in compliance with the Concerns and Compensation Claims Management Standard.

18. TRAINING

18.1 The Health Board will ensure that the staff involved in the management of claims will have access to appropriate training and updating at a level appropriate to their role and responsibilities in accordance with the Standard

19. NHS REDRESS REGULATIONS 2011

- 19.1 The Health Board appreciates and is committed to the objectives of the NHS Redress Regulations 2011 which has developed a small value clinical negligence scheme for Wales.
- 19.2 The Health Board will undertake such action as it deems appropriate to support the Redress Scheme in accordance with the Regulations and which will be included in its Claims Management Procedure and Concerns Procedures.

20 CONFIDENTIALITY

20.1 Information gathered during the course of a claim will be stored in a suitably secure manner. Such information will be shared with the Health Board's legal advisors as necessary. Where such information is not privileged, it may also be released to litigants or their representatives in the interests of protecting

the Health Board's legal position or in accordance with the Health Board's legal obligations of disclosure.

- 20.2 Information obtained during the course of a claim will be stored within the Datix system. This will include elements of personal information relating to staff and patients. In the interests of good governance and risk management, such information may be used for analysis; including analysis linked to the practice and behaviour of individuals. Such analysis will be shared on a 'need to know' basis only. All such analyses are confidential and must be handled and stored accordingly by all concerned.
- 20.3 From time to time the Medical Director will be required to provide information pertaining to the Health Board's claims profile. When such information is to be available for public inspection, the data will be presented in such a way so as to comply with Caldicott guidelines.

APPENDIX 1

References

- Section 8 of the “Putting Things Right - Guidance on dealing with concerns about the NHS from 1 April 2011 – version 3 – November 2013 which supersedes WHC (97) 17 – Clinical Negligence and Personal Injury Litigation: Structured Settlements.
- Civil Procedure Rules 1998
- WHC(98) 8 – NHS Indemnity – Arrangements for Handling Clinical Negligence Claims against NHS Staff.
- WHC(99)128 – Handling Clinical Negligence Claims: Pre Action Protocol.
- Limitation Act 1980.
- NHS (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011 Putting Things Right Guidance on Dealing with Concerns about the NHS Version 3 November 2013.
- Scheme for General Medical Practice Indemnity (GMPI)
- The Welsh Risk Pool Standard of Concerns and Compensation Claims Management.
- The Welsh Risk Pool Reimbursement Procedure and other procedures
- Health Boards Standing Orders and Standing Financial Instructions
- Health Boards Procedure for Losses and Special Payments