



CLAIMS HANDLING POLICY

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Documents to read alongside this Policy	Claims Handling Procedure Clinical Negligence Claims Handling Procedure Personal Injury Welsh Risk Management Standard – Concerns/Claims Management WHC (97)/17- Clinical Negligence and Personal Injury Litigation- Claims Handling WHC (99)/128- Claims Handling Clinical Negligence Claims – Pre-Action Protocol
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OUT OF DATE POLICY DOCUMENTS MUST NOT BE RELIED ON

Version Number	Date of Review Approved	Date Published	Summary of Amendments
1	21 February 2012	28 March 2012	Policy amended to reflect UHB arrangements and requirements of new Welsh Risk Management Standard – Concerns/Claims Management and Putting Things Right/NHS Redress Regulations April 2011.

CLAIMS HANDLING POLICY

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CLAIMS HANDLING POLICY

1. POLICY STATEMENT

- 1.1 This document describes the Policy of the Cardiff and Vale University Health Board (UHB) for the handling of negligence claims made against the UHB.
- 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 UHB risk management Strategy and is intrinsically linked into the UHB systems for managing and learning from adverse incidents and concerns (complaints and incidents).
- 1.3 The UHB aims to deal with all claims made against it proactively, in an equitable, efficient and timely manner. In accordance with the Woolf Reforms, the UHB will deal with each case on its own merits, taking advice from its legal advisors and others, as appropriate.
- 1.4 The UHB will adopt a common and standardised approach in dealing with litigation claims for both clinical negligence and personal injury. The UHB 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 UHB 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. However, where formal legal action is unavoidable, the UHB will ensure that it conducts its defence in a fair and timely manner, ensuring that legal costs are incurred appropriately and proportionately.
- 1.6 The UHB acknowledges the importance of the claims management process within the UHB and will ensure that the process and the appointed Claims Manager has sufficient seniority and profile as required by Welsh Health Circular WHC(97)17. The UHB 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 UHB Claims Management Procedure.
- 1.7 The UHB 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 UHB is committed to learning lessons from claims, when things have gone wrong, to ensure the continued improvement in standards of patient care, staff safety and provision of services.

The Claims Managers will support the Divisional Management team, other key Managers and appropriate staff in this process through the provision of claims information that will assist in supporting the requirement that lessons are learned and appropriate corrective and/or preventive action has been taken and implemented effectively.

- 1.9 In cases where a Clinical Negligence or Personal Injury claim relates to a pre-Trust incident (i.e. before April 1995), responsibility for the claim rests with the Welsh Risk Pool for personal injury claims and Powys Local Health Board for clinical negligence claims. However, the UHB will co-ordinate the investigation of all such claims.
- 1.10 The Claims Managers will not have authority to take the ultimate decision on breach of duty of care/causation that rest with the Defendant Organisation(s) to determine. Furthermore, they do not have authority to agree settlements in any pre-Trust cases.
- 1.11 As far as possible, the handling of clinical negligence and personal injury claims will take due cognisance of any pre-litigation investigations when producing claims information for use within the Organisation.
- 1.12 This Policy applies to staff employed by the UHB and whilst other Independent Contract Professions are occasionally required to cooperate and provide related information regarding a progressing claim, the related requirements of this Policy do not apply to Independent Contractor Professions who are not employed by the UHB.

2. INTRODUCTION

- 2.1 This Policy has been produced in accordance with the references contained in Section 20 of this Policy, for the management of;
 - clinical negligence claims;
 - personal injury claims;
 - losses and compensation claims and the requirements of;
 - Putting Things Right / NHS Redress (April 2011).
- 2.2 The UHB 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 our statutory duty can make a claim for compensation and damages against it. 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.

- 2.4 The Limitation Act 1980 requires that claims should 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. There are no time limits for people with a disability who cannot manage their own affairs. However, the Courts have power to waive limitation provided that a Defendant's ability to defend a claim has not been compromised.
- 2.5 The management and settlement of claims is often an expensive, lengthy and complex process and was examined by Lord Woolf, which resulted in major improvements in the overall Civil Justice system. This Policy and associated procedures have been developed to mirror objectives of openness and timeliness stressed by Lord Woolf that were embedded into the Civil Justice reforms in 1999.

3. DEFINITIONS OF A CLAIM

The following provide definitions for clinical negligence, personal injury and losses and special payments.

3.1 Clinical 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 condition."

3.3 Losses and Special Payments

"Bad debts, losses, damage to/or loss of personal belongings through no fault of the individual where liability would attach to the Organisation."

4. RESPONSIBILITIES

- 4.1 The Chief Executive is the Board member ultimately responsible for all issues relating to clinical negligence and personal injury and for the management of all litigation claims.
- 4.2 The Nurse Director has been designated as the Executive Director with overall responsibility for Concerns, including Clinical Negligence and Personal Injury claims and is required to inform the Board of any major developments in respect of this work.

- 4.3 The Executive Medical Director, Executive Director of Nursing and Executive Director of Therapies and Health Sciences have joint responsibility for quality and safety and clinical governance and will provide leadership and support in achieving the aims of this policy and related procedures.
- 4.3 Approval of the Claims Management Policy will rest with the Board or its delegated Sub Committees as appropriate.

5. DELEGATED LIMITS

Delegation of Out of Court Settlements

- 5.1 The UHB acknowledges that the Welsh Government has delegated its responsibility for the settlement of claims up to a limit of £1 million. The UHB will discharge this responsibility against the following minimum requirements:

- It has a clear policy for the management of claims that satisfies the requirements of WHC(97)17 and Putting Things Right/NHS Redress (2011)
- The requirements of WHC(97)17 and Putting Things Right/NHS Redress (2011) form the basis of the two procedures for the day to day handling of claims
- Either an Annex B checklist is completed for every settlement authorised by the UHB above £1000 but within its delegated limit or that it can demonstrate that remedial action has been taken and an action plan implemented.

Internal Scheme of Delegation

- 5.2 The Board has given delegated responsibility to the Executive Nurse Director to approve all payment requests including settlements up to £1 million in accordance with the Scheme of Delegation as shown in Appendix 2.

The Executive Nurse Director will ensure the Board, through the Concerns/Claims Review Group and Quality and Safety Committee, that the related Concerns agenda is monitored and scrutinised appropriately in order to provide assurance to the Board.

The Claims Managers will ensure that the Assistant Nurse Director (Patient Safety and Quality) is provided with feedback on issues by way of the Personal Injury Claims Assessment Team and Clinical Negligence Claims Assessment Team who will normally chair each meeting.

It is the responsibility of the Executive Nurse Director to ensure that:

- ◆ The designated claims managers review all received claims against the requirements of Putting Things Right / NHS Redress (2011) and WHC (97) 17 in the first instance.

- ◆ The designated Claims Manager has undertaken an assessment of each claim following a review of expert legal and where appropriate, clinical reports and advice.
 - ◆ The opinions of the key staff member(s) have been duly considered before any final view on liability is taken.
 - ◆ The Claims Managers conduct a systematic review of all cases during their life span and promote any necessary plans of action for consideration by the relevant Service Division(s). This arrangement will ensure that deficiencies in service provision are fully discussed and where appropriate Action Plans developed. It is incumbent on the Divisional Management team(s) to undertake a system of audit/review of concluded claims to ensure that all agreed action has been implemented and that its effectiveness has been assessed and/or measured. These arrangements will provide the Board via its various related processes, with robust mechanisms for ensuring that lessons are learnt from any identified service failings or shortcomings.
- 5.3 All Executive Directors have a delegated accountability and responsibility within their respective departments for the implementation and adherence to this Policy.
- 5.4 The Quality and Safety Committee has been established by the Board as a sub Committee and will comprise of 5 Independent Board Members, the Chief Executive, Executive Nurse Director, Executive Medical Director, Executive Director of Therapies and Health Sciences and the Assistant Director of Patient Safety and Quality. The Committee will have responsibility for assuring the quality and safety of healthcare for its users.
- 5.5 The Quality and Safety Committee has resolved to establish a Concerns/Claims Review Group that will be required to review ongoing claims including new claims by focussing on a broader collective approach that will centre on trend analysis, corrective action and learning. The Group will receive a report on all settled claims where any specific service failings and agreed action and/or proposals to improve clinical practice will be reviewed in order to prevent future litigation. Development of the lessons learnt initiative will be channelled through the Group and cascaded through the Divisional Quality and Safety Groups. This mechanism would allow for the continued promotion of good practice, clinical risk reduction and maintain the high profile of patient safety awareness within the UHB.
- 5.6 The Claims Managers, report to the Concerns Team Manager and are accountable to the Nurse Director for the management of claims through compliance with the Policy, including compliance with delegated authority limits and for securing the most cost-effective resolution of all claims.

- 5.7 All members of staff are encouraged to report adverse incidents, including those that may lead to claims for compensation, in line with the UHB's promotion of an 'open' reporting culture. Staff also have a duty to assist the UHB in the investigation and, where appropriate, defence of claims during the claims management process

6. ROLE OF LEGAL ADVISORS

- 6.1 The UHB will use legal advisers in the defence or settlement of clinical negligence and personal injury claims. The contract for the management of personal injury claims will be reviewed from time to time to ensure continuing quality and value for money. Clinical negligence claims will be managed by NHS Wales Shared Services Partnership Legal and Risk Services.

- 6.2.1 Where external legal advice is sought, the UHB will retain the responsibility to direct its Solicitors in respect of liability admission, defence, settlement and general conduct. However, the UHB will always take due cognisance of legal advice in making key decisions on:

- Liability and causation by careful assessment of the relative strengths/weaknesses of a potential defence of each claim including a judgement of a likely successful outcome.
- Valuation of quantum of damages including best and worst case scenarios.
- Likely incursion of legal costs by the claimant and UHB

- 6.3 For any claims managed in-house, legal advice will be obtained via the Claims Managers. In such cases, legal advice will be recorded on each case file.

- 6.4 The final decision to settle a claim or to continue with its defence will be taken by the designated Claims Manager following a review of evidence and advice from external and internal sources. However, for claims that are of high value that may involve the establishment of a potential precedent or could attract significant media interest, the designated Claims Manager following discussion with the Concerns Team Manager and/or Assistant Director of Patient Safety & Quality, will liaise with the Executive Nurse Director and/or nominated Executive Director for approval to proceed to settle/defend such claims. All decisions to settle claims will be ratified by the Executive Nurse Director when approval is sought for the payment of compensation, supported by the relevant documentation.

7. THE ROLE OF THE CLAIMS MANAGER

- 7.1 The UHB employs two dedicated Claims Managers who hold, or who is working towards relevant qualifications in claims management and can demonstrate the necessary experience in the management of clinical negligence and personal injury claims.

- 7.2 The Claims Managers will be required to demonstrate on-going updating and continuing professional development in claims management.

- 7.3 The UHB will ensure that the Claims Managers are given sufficient profile and seniority within the Organisation to achieve the objectives of WHC(97)17. The Board will support the Claims Managers in the furtherance of their objectives.
- 7.4 The Claims Managers, report through the Concerns/Claims Team Manager and Assistant Director of Nursing (Patient Safety & Quality). However, in line with the requirements of this Policy can exercise direct access and report to the Executive Nurse Director as necessary to achieve the objectives of WHC(97)17 for effective claims management.
- 7.5 The Board has endorsed an Escalation procedure to which it has given its full support to the Claims Managers to perform their duties effectively. The escalation procedure is designed to ensure that all members of staff throughout the UHB acknowledge the importance of the Claims Management process. The Board will continue to support 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.
- 7.6 The Claims Managers will ensure that all members of staff through their Line Management arrangements are kept informed of key developments and/or the eventual outcome of each claim.

8. REPORTING REQUIREMENTS

- 8.1 The Board delegates its responsibilities to the Quality and Safety Committee as the duly authorised Committee for Concerns which includes claims. The Terms of Reference of the Committee as the duly authorised Committee of the Board will reflect its role in relation to claims. The Chief Executive retains ultimate responsibility for claims management within the UHB and will ensure that the Board is kept informed of any significant and major developments in litigation. The Committee has agreed the establishment of a Concerns/Claims Review Group that will report to Committee and will receive and review regular progress reports on the management and status of claims against the UHB, in an appropriate format as specified by WHC (97)17. The minutes of the Committee will be formally provided to the Board for information purposes. The claims report will include information on:
- The UHB's claims profile and claims management record
 - Key issues and/or major developments affecting the UHB
 - Number of claims
 - Aggregate value of claims in progress
 - Details of any major claims
 - Progress and likely outcome of ongoing claims including estimated settlement dates
 - Value of claims settled and final outcomes
 - Identification of any trends
 - Information regarding remedial action as appropriate.
- 8.2 The Committee will receive an Annual Report reporting on comparative issues at the end of the relevant financial year that will focus on workload

and the financial implications for the UHB. The report will be cascaded to the Divisional Quality and Safety Groups for discussion and appropriate action.

- 8.3 The Director of Finance will routinely report the value and incidence of Losses and Compensation payments to the Losses and Special Payments Panel (or equivalent) for ratification by the Audit Committee.
- 8.4 The Claims Managers are the Lead Officers for the Welsh Risk Management Concerns/Claims Review Standard, for the Claims Management elements and are responsible for coordinating self-assessment against these standards.
- 8.5 The reporting requirements relating to the reimbursement process managed by the Welsh Risk Pool are set out in Paragraph 16.5
- 8.6 The reporting requirements to the Welsh Government are set out in Paragraph 12.
- 8.7 Where a claim has been identified as a Patient Safety Incident but during the course of its investigation, it was not previously reported through the incident reporting process, the UHB will ensure that a retrospective report is sent to the National Patient Safety Agency by the National Reporting and Learning System.

9. CLAIMS MANAGEMENT PROCEDURES

- 9.1 The UHB will ensure that a Claims Management procedure for Clinical Negligence and Personal Injury claims is developed which supports and embraces the objectives contained in this Policy, WHC(91)17 and Putting Things Right/NHS Redress (2011).
- 9.2 The Claims Handling Procedure for Clinical Negligence and Personal Injury claims will set out the processes and procedures for the day to day management of such claims.
- 9.3 The Board delegates the authority for the approval of the Claims Management procedures to the Quality and Safety Committee via the Concerns/Claims Review Group.

10. INVOLVEMENT OF FRONT LINE STAFF

- 10.1 The UHB recognises that the co-operation of all staff involved in the incident leading to a claim is crucial to the prompt collation of information. Staff will be encouraged and supported to assist the Claims Managers and any duly appointed legal advisers, in the handling of any particular claim. All staff are required to fully and openly co-operate in the investigation of legal claims and to comply with this Policy and the Claims Handling procedures.
- 10.2 Once an incident has been reported, the designated Claims Manager 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 Claims Manager with witness evidence and information to assist in the investigation of a particular claim in a timely manner.
- 10.4 The UHB recognises that providing witness statements and giving evidence can be a stressful experience and will ensure that sufficient support and guidance is provided to members of staff who are required to give evidence on its behalf.
- 10.5 The UHB will take full responsibility for managing, and where appropriate settling claims in clinical negligence or personal injury claims by meeting all its financial obligations. It will not seek to recover any costs from any staff save in very exceptional cases, where an individual was legally found to be acting outside of his/her remit or behaved maliciously.

11. NUISANCE CLAIMS

- 11.1 The UHB will not settle claims of dubious merit, irrespective of costs, 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 UHB legal liability and the risks and costs associated with its defence, including the prospects of recovering costs in the event of a successful outcome.

12. REPORTING OF CLAIMS TO THE WELSH GOVERNMENT

12.1 Novel, Contentious or Repercussive Claims

The Claims Managers will monitor the nature and type of claims received to ensure that any claims, that are novel, contentious or repercussive are reported in advance of settlement to the Welsh Government and any required approvals are obtained. These may include claims involving some unusual and new features which if not correctly handled, might set an unfortunate precedent for other NHS litigation or which appear to represent test cases for a potential class action or cases although not formally part of a class action appear to be very similar in kind to concurrent claims against other NHS bodies. In such cases, the Claims Managers will contact the Welsh Government for advice regarding their management.

12.2 Claims Exceeding the Delegated Financial Authority

The Claims Managers will ensure that any claims with damages estimated to exceed the UHB's delegated authority of £1 million are reported to the Welsh Government and prior approval is obtained in advance of liability being conceded and the claim being settled.

13. DATABASES

13.1 The UHB will maintain two databases:

13.2 Datix

The UHB's claims data-base will contain the information prescribed in the two Claims Handling Procedures.

13.3 LaSPaR

The Losses and Special Payments Register (LaSPaR) is a computerised database introduced by the Welsh Government to replace previous paper based systems with a National standardised format 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 Welsh Government to identify settlements/ 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.

13.2 All clinical negligence and personal injury claims will be entered onto both databases by an authorised member of staff. Other losses and special payment details will be similarly processed.

13.3 The UHB will ensure that patient and staff confidentiality is maintained in the operation of each system.

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

14.1 The Welsh Government has introduced Putting Things Right/NHS Redress (April 2011) which reinforces the linkages and alignments of all Concerns with risk management arrangements. Work will continue to improve and develop these functions to provide management with high quality data for internal review and discussion.

Linkages

14.2 Adverse incidents or outcomes which could lead to a claim for negligence should be identified and reported to the Claims Managers immediately they occur and where appropriate a serious incident report sent to the Welsh Government by the provision of the required information such as:

- 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 Concerns Team will work together to identify concerns that involve potential breaches of the legal duty of care by UHB staff and which fall outside NHS Redress. An internal investigation will be undertaken to enable the UHB to adopt a pro-active stance to the management and resolution of potential claims identified through the Concerns procedure.

14.4 A Concerns (complaints/claims) file review process has been established whereby the Chairman and Chief Executive consider a sample of randomly selected complaints and claims and agree future action as necessary.

14.5 The DATIX system will identify where a potential claim has previously been reported as an incident or concern and will gather the relevant information to comply with the relevant Pre-Action Protocols.

14.6 Appropriate reports combining information on concerns, claims, risk and incidents will be provided to the Quality and Safety Committee, Divisional Quality and Safety Groups for subsequent cascading down through all levels of the Organisation.

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

15.1 The UHB continues to be committed to learning lessons from claims, concerns and adverse incidents and 'putting things right'.

15.2 It is important that lessons are learned following a review of every incident. Each Executive Director has responsibility for liaising with appropriate staff and ensuring any failures that have been identified and subsequent remedial actions are implemented and monitored.

15.3 The UHB will ensure that a formal process and procedure is developed 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, the principles of which will be included within its Claims Handling procedures.

15.4 The Claims Managers will identify the potential for 'learning lessons' from all claims and complaints. Such information will be routinely reported to the Quality and Safety Committee via the Concerns/Claims Review Group in accordance with the arrangements for learning lessons as set out in the Claims Handling procedures.

15.5 The Claims Managers will identify the potential for the use of NHS Redress and the Alternative Dispute Resolution before considering litigation. In addition, the Concerns procedure will be used to ensure that patients receive, where appropriate, an apology and a full explanation concerning their areas of concern to reduce the potential for future litigation. For

Personal Injury incidents, the UHB has developed the Alternative Compensation Scheme that is available to staff and visitors where issues of liability are not at issue to try and prevent formal litigation.

- 15.6 The Claims Managers will produce an Annex B checklist for all claims exceeding the UHB's excess of £25,000. This will be used as the basis for education/training, monitoring and evaluating the efficacy of the lessons learned from claims. The relevant Division(s) will be responsible for completing that part of the Annex B form that relates to risk management issues, changes in practice and remedial action to demonstrate that lessons have been learnt.

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 UHB is assessed annually against the Welsh Risk Pool Standard for Claims Management.
- 16.3 The UHB will comply with the various rules and procedures of the Welsh Risk Pool. The Claims Managers will assist in the UHB's adherence to the same.
- 16.4 In order to be reimbursed by the Welsh Risk Pool, the UHB is required to submit a WRP 1, Costs Schedule and Annex B Checklist.
- 16.5 The Welsh Risk Pool will be provided with quantum information by the NWSSP, Legal and Risk Services that will include details of all current and settled claims.
- 16.6 The UHB acknowledges that the Welsh Risk Pool will periodically undertake reviews of claims managed by the UHB as selected by its Advisory Board. The UHB will ensure the co-operation of its staff as identified within the Claims Handling procedures.

17. NHS REDRESS – PUTTING THINGS RIGHT INITIATIVE

The NHS (Concerns Complaints and Redress Arrangements) (Wales) Regulations 2011 came into force in Wales from 1st April 2011. All concerns, including patient safety incidents and complaints received by the UHB are processed by way of these Regulations.

The Regulations will only apply if the concern(s) occurred within 12 months of its notification to the UHB or within 12 months of the individual being aware that they had grounds to raise a concern(s). This limitation provision will only begin to apply to a child once he/she reach the age of 18 and would not normally apply to individuals who lack capacity under the mental Capacity Act 2005. However the UHB would not be able to consider any concern notified to the UHB after 3 years or

more of the original occurrence or that the individual was aware that they had grounds to raise a concern(s).

Upon receipt of a concern by the UHB, the Concerns Manager will arrange for an appropriate investigation to be carried out by an appropriately trained individual. The investigation should be completed within the 30 working day timescale laid down within the Regulations; however provision is made in the regulations for particularly complex cases to issue an interim report at 30 working days and a final report within 6 months. Following completion of the UHB's investigation, a decision will be taken where possible as to whether any qualifying liability in tort can be determined. In other words, whether it failed in its duty of care to the individual concerned and that breach was causative of any loss/harm that was suffered.

If no qualifying liability is not established:

A final response under Regulation 24 will be prepared that would include a summary of the patient's treatment/care in terms of the concerns raised, copy of any relevant medical records, disclosure of witness and any expert evidence, subsequent remedial action taken by the UHB, along with an offer to discuss any related issue further with an investigating Officer.

If a qualifying liability has been established:

An appropriate offer of Redress will be made that could include any of the following remedies providing that the individual gives an undertaking not to litigate against the UHB.

- An apology
- Fast tracked treatment or therapy
- Counselling
- Provision of medical equipment/facilities
- Compensation

The Concerns team managers may be required to advise and/or assist during the processing of concerns under Regulation 26 in respect of:

1. Determination of a qualifying liability in tort.
2. Acquisition and/or instructions of independent expert(s).
3. Preparation of the investigative reports in response to the concern(s) including remedial action taken by the UHB.
4. Assessment of likely level of compensation including associated costs up to an overall maximum of £25,000.
5. Consideration of any non-financial service provision.
6. Choice of Solicitors to provide individual with independent legal advice on any redress offer.
7. Arrange for the payment of any financial compensation.
8. Potential use of Alternative Dispute Resolution.
9. Acquisition of a Compensation Recovery Certificate from the DWP.
- 10 Any associated legal matters surrounding disclosure, confidentiality, Conditional Fee Agreements/costs, Insurance Costs Protection etc.

18. RESOURCES

No additional resources were identified as a result of approval of this Policy. However, it is likely that issues will arise which may require resource once the full implications of the Redress Initiative has been identified.

19. TRAINING

The policy and procedure are referred to during staff induction and other training events. No additional training has been identified.

20. REFERENCES AND FURTHER INFORMATION

The policy complies with the following references:

- The Civil Procedure Rules 1998
- WHC(97) 7 – Clinical Negligence and Personal Injury Litigation: Structured Settlements
- WHC(97)17 – Clinical Negligence and Personal Injury Litigation: Claims Handling
- WHC(98)8 - NHS Indemnity – Arrangements for Handling Clinical Negligence Claims against NHS Staff
- WHC(99)128 – Handling Clinical Negligence Claims: Pre-Action Protocol
- The Welsh Risk Pool Claims Management Standard (April 2007)
- The Welsh Risk Pool Reimbursement Procedure and other Procedures
- Putting Things Right/NHS Redress Welsh Government Regulations 2011
- The UHB's Standing Orders and Standing Financial Instructions

21. EQUALITY IMPACT AND ASSESSMENT

An equality impact assessment has been undertaken to assess the relevance of this policy to equality and potential impact on different groups, specifically in relation to the General Duty of the Race Relations (Amendment) Act 2000 and the Disability Discrimination Act 2005 and including other equality legislation. The assessment identified that the policy presented a low risk to the UHB

22. AUDIT

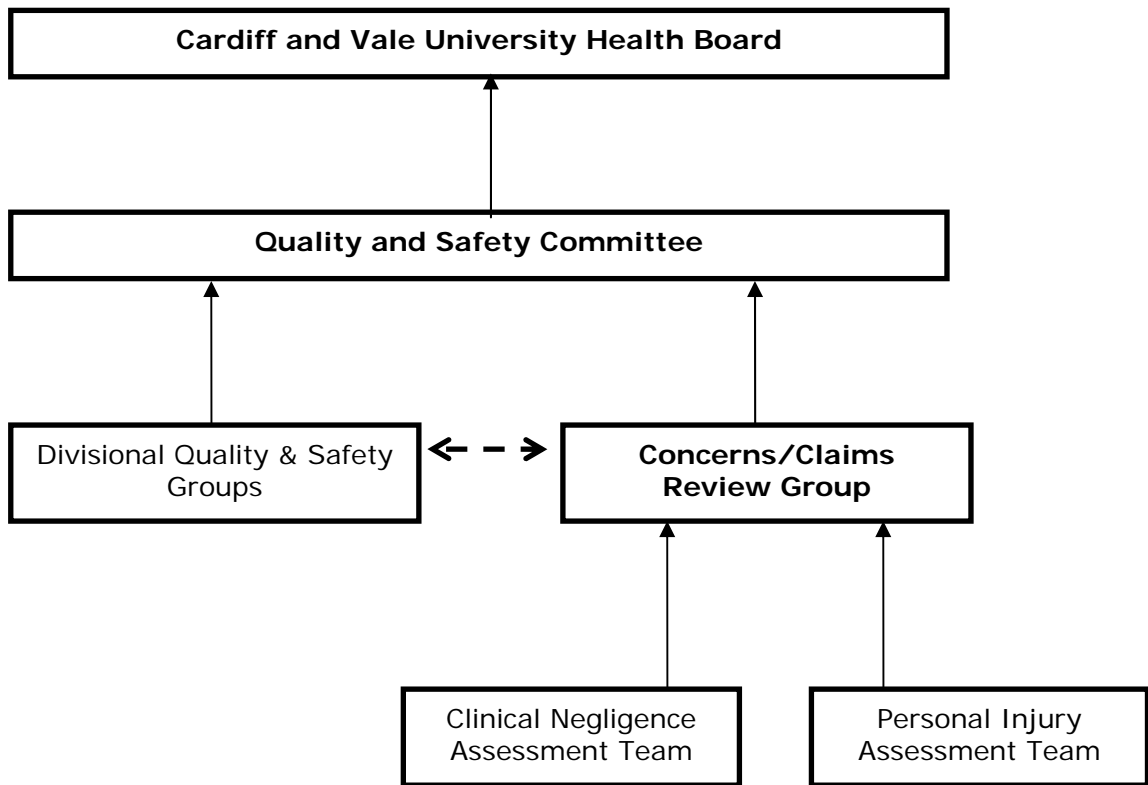
An annual audit will be undertaken, by Internal Audit, of the accuracy of financial information used to reclaim monies from the Welsh Risk Pool.

The Welsh Risk Pool will undertake review of a selection of cases periodically as identified by their Advisory Board. The UHB will also engage in the continuing annual assessment of compliance with Welsh Risk Pool Standard No 5.

23. DISTRIBUTION

This Policy will be available for viewing via the UHB Intranet.

APPENDIX 1: CONCERNS/CLAIMS ASSURANCE STRUCTURE



APPENDIX 2

SCHEME OF DELEGATION – Refer also to UHB Standing Orders

Matter Delegated	Approving Officer
<p>Approval of individual losses and special payment in respect of claims as laid down in current Welsh Government guidance:</p> <ul style="list-style-type: none"> • Up to £999,999 • £1,000,000 and over 	<p>Executive Nurse Director</p> <p>Welsh Government</p>
<p>Note:</p> <p>These limits relate to overall damages and/or costs payable.</p>	