the lead Director, should be equipped with the relevant skills and should have an understanding of the legal process. These managers will work closely with clinical teams and act as facilitators within those teams so that less are learnt from mistakes. To this end, these managers will need to have access to an appropriate IT system helping in the overall management of claims and clinical risk.

In order to manage claims effectively, the organisation must have a sound clinical risk management policy and procedure[7] highlighting roles and responsibilities of all staff from the Chief Executive to the grass root; this should be used as a framework to ensure translation into specialty-specific procedures. These procedures will need to be in place for all high-risk specialties, though over time these must cover comprehensively all clinical activities.

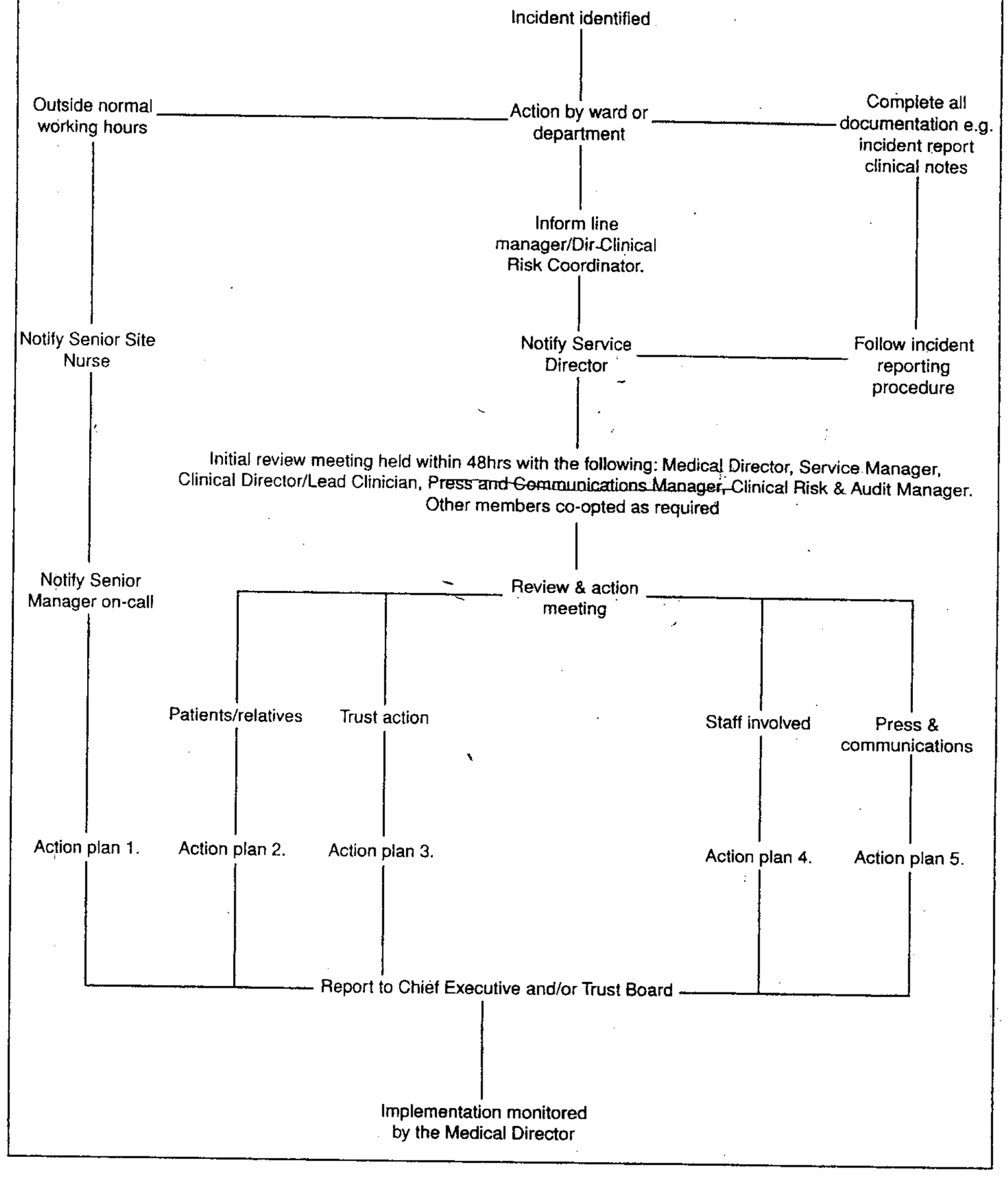
Each specialty needs to identify an individual taking responsibility for monitoring the implementation of the procedure and who will ensure that untoward events, incidents and near misses are reported speedily, investigated and action taken if appropriate. This individual should have a clear line of accountability and be appropriately trained. Close working relationship with all members of the clinical team, the Trust Clinical Risk Manager and/or the Claims Manager if they are different individuals, must be developed; clear line of communication will also need to be established to ensure advice is readily available. This approach rigorously implemented will allow the identification of potential claims at an early stage.

Serious clinical incidents

At times serious clinical incidents may occur; these would include any event resulting in, or with the potential to develop into, serious damage/injury or death of a patient, as an unexpected consequence of clinical care; death or serious injury where foul play is suspected; a number of unexpected/unexplained deaths; a suspicion of a serious error or errors by a member of staff which would give rise to public or professional concerns. This list, however, is by no means exhaustive. Here is a practical example: the diagnosis of acute pancreatitis in a young man in the accident and emergency is missed, the patient is discharged and dies. Such serious clinical incidents often attract media attention. It is therefore important that action is taken early and relatives/patients seen by a senior manager. These should not be left to the common sense of the manager present at the time but enshrined in a clear and explicit process, a serious clinical incident procedure. The procedure should include flow charts defining the role of the staff involved and the action to be taken whatever time of the day or night it is. Box 8.1 describes the process in outline. These incidents are likely to result in relatives seeking compensation from the Trust.

Serious clinical incidents and potential claims identified through the adverse event reporting system must be investigated early when the events surrounding the incidents are still fresh in the mind of the staff involved; and the sequence of events clearly remembered. The Claims Manager will need to be notified immediately so that a copy of the documentation can be secured and a file created identifying the patient's administrative details, the list of staff involved, a chronological summary of the clinical events, worksheets and relevant legal information.[8] Staff must be interviewed and statements

Box 8.1 Serious clinical incident process



taken; in case of potential litigation this is best done by the Claims Manager. It is important that they are made aware of the potential for litigation even though the Trust may not have received a letter before action and may not receive one for many months. Up to now statements taken on behalf of legal advisers, are considered privileged information,[9] providing their purpose is to inform solicitors about the case with potential litigation. This may be challenged and in the event, the information gathered will have to be disclosed. Statements must therefore consist of factual information only. The

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