



21 January 1999

The Chief Executive of each Health & Social Services Board
The Directors of Finance of each Health & Social Services Board
The Chief Executive of each Health & Social Services Trust
The Director of Finance of each Health & Social Services Trust
The Chief Executive of the Central Services Agency
The Director of Finance of the Central Services Agency
The Chief Executive of the Northern Ireland Blood Transfusion Service
(Special Agency)
The Chief Executive of the Regional Medical Physics Agency

Dear Sir/Madam

**CLINICAL NEGLIGENCE CLAIMS HANDLING - PRE-ACTION PROTOCOL FOR
THE RESOLUTION OF CLINICAL DISPUTES**

The purpose of this circular is to bring to your attention a pre-action protocol for handling clinical negligence claims which NHS Trusts and Health Authorities in Great Britain will be expected to follow from April 1999.

Background

The Clinical Disputes Forum, a multi-disciplinary body based in GB was formed in 1997 to develop less adversarial and more cost effective ways of resolving disputes about healthcare and medical treatment. In July 1998 a working group of the Forum produced a protocol which, although not intended to be comprehensive, provides a code of best practice for dealing with cases where litigation is a possibility.

The protocol covers two central areas:

- (i) a set of good practice commitments by those involved, with particular emphasis on better handling of potential disputes and more effective and efficient management of information and investigation;
- (ii) a set of steps to be followed where litigation is in prospect, focusing on management of information, for example, the handling of health records and exchanges of formal letters.

The protocol aims to improve the pre-action communication between parties by establishing a timetable for the exchange of information relevant to the dispute and by setting standards for the contents of correspondence. Compliance with the protocol should assist parties in making an informed judgement on the merits of their case earlier than usually happens because they will have earlier access to the information required. This will provide opportunity for improved communications between the parties, intended to lead to an increase in the number of pre-action settlements.

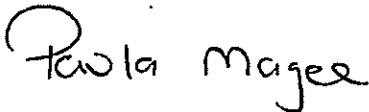
It is the intention of the Lord Chancellor's Department to include the protocol as Practice Directions to accompany new Civil Procedure Rules coming into force in April 1999. Courts in Great Britain will be able to treat the standards laid down in the protocol as normal pre-action conduct.

Application to Northern Ireland

It is expected that Northern Ireland will follow Great Britain in this respect and therefore application of the pre-action protocol in dealing with clinical disputes is highly recommended.

I enclose a copy of the protocol for your attention. The content of this circular should be drawn to the attention of all claims managers and other relevant staff.

Yours faithfully



PAULA A MAGEE
Policy and Accounting Unit

Enc