



HSS (F) 19/98

The Chief Executive of each
Health and Social Services Board/Trust/Agency

The Director of Finance of each
Health and Social Services Board/Trust

15th May 1998

Dear Sir/Madam

**CLINICAL NEGLIGENCE CENTRAL FUND:
FUNDING AND ADMINISTRATIVE ARRANGEMENTS**

A Central Fund has been established to meet the cost of clinical negligence claims. The scheme will be administered by the Central Services Agency.

Appendix 1 sets out the funding and administrative arrangements for the fund and details how Trusts may access the fund.

Any enquiries about this circular should be addressed to Neville Jones, Policy and Accounting Unit, Belfast: [REDACTED]

Yours sincerely

A handwritten signature in dark ink, appearing to read 'N Jones', written over a light-colored background.

NEVILLE JONES
Policy and Accounting Unit

CLINICAL NEGLIGENCE CENTRAL FUND

DEFINITION

1. Clinical Negligence is defined as:

"a breach of duty of care by members of the health care professions employed by HSS bodies. This includes medical and dental practitioners, nursing staff, professions allied to medicine, such as ambulance personnel and laboratory staff, social care and social services professionals".

RESPONSIBILITY FOR CLAIMS

2. The responsibility for the claim is dependent on the timing of the incident from which the claim arises.

Pre Trust Status

- 2.1 Clinical negligence claims relating to the pre Trust period are the responsibility of the host Board.

Post Trusts Status

- 2.2 HSS Trusts are liable for the payment of settlement costs for clinical negligence claims occurring after their inception. With effect from 1/4/98, the funding of the payment will be via a Central Fund, administered by the Central Services Agency.

Post Trust Claims

- 2.3 A Clinical Negligence Central Fund has been established to manage the payment of clinical negligence claims. Where a Trust/Agency is required to make a payment in respect of a clinical negligence case, the Central Fund should be accessed as outlined in paragraph 4 below. The Central Fund will be funded through the contributions from Boards, calculated on a capitation basis (see 5 below).

HANDLING OF CLAIMS

3. Trusts will be responsible for the complete process of handling claims and agreeing the amount of the final settlement. Circular HSS(F)20/98 "Clinical Negligence Claims: Claims Handling" sets out the guidance to be followed.

ADMINISTRATION OF THE FUND

- 4.1 The Central Fund will be administered by the Central Services Agency (CSA). As an annual exercise, Trusts/Agencies will be required to provide, by 31 January each year, details of potential settlements in the forthcoming financial year. While clearly difficult, returns should include best estimates of potential quantum and dates of settlement.

In-year, Trusts will also be required to submit to the Director of Finance and Administration of the CSA, on a quarterly basis, details of the settlements which they expect to pay within the forthcoming 12 months. (Returns should be in the format outlined in Appendix 1) The submission timetable is shown in Appendix 2. This will enable the CSA and Boards to estimate the potential funds required in the period. While it is fully appreciated that the estimation of the potential quantum and settlement dates is difficult, in order for the proposed procedures to operate effectively, it is essential that the appropriate returns to the CSA are made within the designated

timescales. Where a claim settles £50,000 or more above the original or updated quarterly estimates, Trusts should confirm to the CSA the reason(s) for the variance.

Payment of Claims

- 4.2 When the settlement is confirmed and payment is due, the latter should be made initially by the Trust concerned.

Reimbursement requests should be submitted to the CSA. All requests for payment should be accompanied by supporting documentation covering items listed in Appendices 3 and 4. The CSA will collate reimbursement requests and submit monthly accounts to Boards, apportioning costs on a capitation basis. When payment is received from the Boards, the CSA will forward reimbursement to relevant Trusts. The CSA will maintain a record of the payments made each quarter and of the capitation share of each Board. This record will be issued to Boards and Trusts on a quarterly basis (see 8 below).

The CSA will operate a separate bank account for the transactions relating to clinical negligence in order to separate them from its own transactions. A record will be maintained of all transactions through the Fund bank account.

FUNDING OF CENTRAL FUND

5. Boards currently receive an allocation designated for clinical negligence and they draw down the funds as and when they are required. The Central Fund will be funded by the Boards and contributions will be on capitation basis. The rationale behind this is that Boards are already funding on a weighted capitation basis.

The Central Fund will be funded as and when it is required, that is, funds will not be accumulated unnecessarily but will be accessed as the money is required to finance

settlements. As each payment is made, each Board's capitation share will be calculated and the relevant funds requested from each Board.

ACCOUNTING FOR THE FUND

6. The creation of the Central Fund will require accounting at the three levels.

Accounting by the Central Services Agency

- 6.1 The CSA will have to account for all transactions processed through the Central Fund bank account during the year. They will account for the funds received from the Boards as income and for the transfer of funds to the Trust as expenditure. The income will be included within "Income from other sources" in the Income and Expenditure account and will be analysed separately in note 3 to the accounts. The expenditure will be included within "Operational costs" and analysed separately in note 5. In the main there should not be any balance in the Fund bank account at the year end, however, if there is, this will be matched by a creditor to the Fund.

Accounting by the Boards

- 6.2 The Boards will account for their full allocation in the normal way and the amount transferred to the CSA will be accounted for as expenditure. The Boards will include the expenditure within "Healthcare, personal social services and related services purchased" and it will be analysed separately in note 2.1 to the Accounts.

Accounting by Trusts

- 6.3 Trusts will account for the funds received to cover the settlement as income and for the payment as expenditure. The income received will be included under "Other operating income" and will be analysed separately in note 3.

The expenditure will be included within "Operating expenses" and will be analysed separately within note 4.1.

AUDIT ARRANGEMENTS

7. Auditors may require to verify the amounts paid out in settlements by the Central Services Agency. The Central Services Agency will retain the information submitted to it in support of the payment request. The detailed supporting documentation in respect of each payment should be retained at the Trust concerned.

INFORMATION TO BE HELD CENTRALLY AND DISSEMINATED

8. Trusts should maintain a comprehensive database of information on clinical negligence. Circular HSS(F)20/98 "Clinical Negligence and Personal Injury Litigation: Claims Handling" gives guidance on the type of information which Trusts should retain in their database. Appendices 3 and 4 detail the key information which Trusts will be required to supply to the Central Services Agency when submitting their payment request in respect of each claim. The information in Appendix 3 is basic factual information about the case which will be collated on a quarterly basis and issued to Boards and Trusts for information purposes. They will also receive quarterly information on the Boards' shares of the settlements paid during the quarter.

The information required in Appendix 4 is more qualitative information on procedures and remedies. A review team will be established with representatives from HSS Boards and Trusts to review this information and assess the issues involved and lessons to be learnt. An annual report will be produced on the more strategic issues identified in the cases, their implications for the HPSS generally and the way forward.

QUARTERLY RETURN TO CSA ON CLINICAL NEGLIGENCE CASES FOR 1998/99

QUANTUM OF COST

TRUST

12 MONTHS TO

Plaintiff ID*	Estimated Settlement Date	Estimated Settlement Costs £000s	Estimated Legal Costs £000s	Total £000s
TOTALS				

* Plaintiff ID to include Plaintiff's initials and case number

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APPENDIX 2

TRUSTS QUARTERLY RETURN TO CSA FOR CLINICAL NEGLIGENCE CASES

CSA RETURNS TO BOARDS

		Trusts Return to CSA	CSA Return to Boards
1.	Estimate of Claims due for prospective Financial Year	1 February	8 February
2.	1st Quarter Update on Annual Estimate ...	30 June	7 July
3.	2nd Quarter Update on Annual Estimate ..	30 September	7 October
4.	3rd Quarter Update on Annual Estimate ...	31 December	8 January

APPENDIX 3

INFORMATION TO BE SUPPLIED IN SUPPORT OF EACH PAYMENT REQUEST

1. Date of settlement of claim
2. Amount of settlement
3. Legal Costs
4. Speciality
5. Nature of claim (including brief description of how occurred)
6. Date of claim
7. Board of residence of plaintiff.

APPENDIX 4

ADDITIONAL SUPPORTING INFORMATION REQUIRED

1. Break down in established procedures identified:
 - clinical
 - administrative
 - communicative
2. Changes required to establish procedures above and timetable for implementation
3. Problems identified with equipment and action taken to remedy
4. Any problems identified with claims handling procedures and steps taken to remedy
5. Is this a new risk and steps taken to review procedures.