



NHS Management Executive
St. Andrew's House
Edinburgh EH1 3DG

10th July 1998

«Date»

Dear Colleague

**MEDICAL INDEMNITY: ARRANGEMENTS FOR
CENTRAL REIMBURSEMENT OF COSTS FOR LARGE
DAMAGES AWARDS**

Summary

1. This letter updates the financial thresholds above which Health Boards and NHS Trusts can seek assistance towards the costs and expenses of large damages awards arising from successful medical negligence claims.

Background

2. The scheme under which employing health authorities may receive financial assistance towards the costs of relatively large medical negligence awards was introduced in 1990. It is funded from a reserve held on behalf of the Management Executive by the Medical and Dental Defence Union (MDDU). Access to the fund is dependent on the size of an award relative to the employing authority's HCHS allocation (Health Boards) or annual level of contract income (Trusts).

3. In brief, the terms of the scheme are that employing authorities are responsible for meeting the costs of awards that are less than 0.15% of their allocation/expected annual income or £450,000, whichever is the smaller. Once above that threshold the authority may access funds, but still remain responsible for meeting the first 25% of the amount claimed against that reserve. Further safety nets exist to protect employing authorities against really large awards or a substantial accumulation of awards in any one financial year. Fuller details were provided in Appendix 1 to NHS Circular MEL(1996)12 which remains extant.

4. This letter details the revised threshold points for individual Health Boards and Trusts based on their 1998-99 HCHS allocations or contract income as appropriate.

NHS Circular
MEL(1997)35 is updated

Addressees

For action:
General Managers,
Health Boards

General Manager,
Common Services Agency

General Manager,
State Hospitals Board for Scotland

Chief Executives,
NHS Trusts

The Director,
Mental Welfare Commission

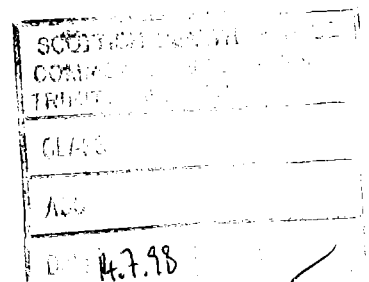
For information:
General Manager,
Health Education Board for Scotland

Executive Director, SCPMDE

Enquiries to:

Chris Naldrett
Directorate of Finance
Department of Health
NHS Management Executive
Room 254A
St Andrew's House
EDINBURGH EH1 3DG

Tel: 0131-244 2363
Fax: 0131-244 2371



The percentage limits remain unchanged but the cash ceiling has been increased to £450,000 to reflect the increase in Health Board revenue allocations since 1989-90. The thresholds apply to awards that fall payable from the date of this circular.

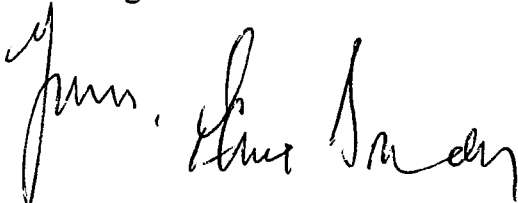
General

5. Circular NHS MEL (1996)12 dated 7 February 1996 provided a summary check for clinical risk management standards. It did so against the need for employing authorities to have appropriate risk management procedures in place, this is re-issued as Appendix 3. It is not definitive and should be regarded as guidance only. It was drawn from the 1993 SCOTMEG/CRAG report 'Medical Claims' and Appendix A of a NHS Executive (England) publication which outlined their clinical negligence scheme for Trusts (CNST). Both are useful sources of reference and advice.

6. Mr Naldrett's letter dated 4 February 1998 provided an update on the review of the current scheme. Our aim remains to have new arrangements operational by the year 1999-00 and you will be kept informed of developments.

Action

7. Health Boards and NHS Trusts should note the revised thresholds above which contributions towards the costs of medical indemnity awards are payable, and that the criteria for making claims remains as set out in Appendix 1 to NHS Circular MEL(1996)12.



DR P BRADY
Director of Finance

ARRANGEMENTS FOR REIMBURSEMENT OF COST OF LARGE AWARDS FOR MEDICAL NEGLIGENCE

1. Health Boards and NHS Trusts (employing authorities) are responsible for meeting the costs of all awards which are less than 0.15% of their base revenue allocation (Boards) or expected annual income (Trusts), up to a maximum of £450,000.

2. For awards above the calculated sum, employing authorities will additionally pay one quarter (25%) of the amount by which the award exceeds the calculated sum, thereafter the balance will be met centrally. This is subject to maxima rules, ie the employing authority will not be liable to meet the costs:

- ◆ for any one award where their contribution exceeds 0.3% of their allocation/income figure;
- ◆ where the total payments by employing authorities on all awards in any one financial year exceeds 0.5% of their allocation/income figure.

The excess in each case will be met centrally.

3. In calculating the cost of an award, the employing authority should include both the payment to the Pursuer and the adverse legal expenses of the Action. Once a settlement is reached, Central Legal Office will advise the employing authority and the Management Executive of the amounts which fall to be paid.

4. Thereafter, the employing authority should notify the Management Executive of the amount it wishes to reclaim, under the above formulae, using the form attached as an Annex to this Appendix. Once checked and agreed, the Management Executive will arrange for the appropriate sum to be transferred from the Medical and Dental Defence Reserve to the employing authority.

DoH Finance Directorate

IN CONFIDENCE

ANNEX A

HEALTH BOARD/ NHS TRUST REFERENCE:	DoH REFERENCE:
---	----------------------

**APPLICATION FOR REIMBURSEMENT OF PART OF COSTS
INCURRED IN A CASE OF MEDICAL NEGLIGENCE**

Name of Health Board/NHS Trust:	
Name(s) of pursuer(s)	

Name(s) of Health Board/NHS Trust employee(s) whose negligence has been established or admitted:	
--	--

Nature of negligence established:	
-----------------------------------	--

Cost to Health Board/Trust of award:	£
--------------------------------------	---

Adverse legal and associated costs incurred by Health Board/NHS Trust (as certified by Central Legal Office):	£
---	---

Amount of reimbursement sought:	£
---------------------------------	---

(Signed):

(Position):

(Date):

Notes:	
1.	This form should be returned to Miss C Gilchrist, Department of Health, Management Executive, Room 253, St Andrew's House, Edinburgh, EH1 3DE, telephone 0131-244 2271.
2.	If there is likely to be a delay in establishing the legal costs, Health Boards/Trusts may wish to submit an initial application for the cost of an award and a subsequent application for the legal costs; in calculating the final sum due to a Board/Trust, the various costs will be added and the sum to be reimbursed calculated from that total.

CENTRAL CONTRIBUTION TO DAMAGES AWARDS: 1998/99

HEALTH AUTHORITY	GENERAL REVENUE ALLOCATION	MINIMUM AWARD FOR CENTRAL CONTRIBUTION 0.15% OF Col (2) WITH £450,000 CEILING	AWARD ABOVE WHICH ADDITIONAL COSTS MET CENTRALLY 0.3% OF Col (2)	MAXIMUM EXPENDITURE BY EMPLOYING AUTHORITY IN FINANCIAL YEAR (0.5% of Col (2))
COL (1)	COL (2) £M	COL (3) £	COL (4) £	COL (5) £
<u>HEALTH BOARDS</u>				
ARGYLL & CLYDE	241.800	362,700	725,400	1,209,000
AYRSHIRE & ARRAN	205.300	307,950	615,900	1,026,500
BORDERS	62.200	93,300	186,600	311,000
DUMFRIES & GALLOWAY	86.900	130,350	260,700	434,500
FIFE	180.800	271,200	542,400	904,000
FORTH VALLEY	142.000	213,000	426,000	710,000
GRAMPIAN	262.200	393,300	786,600	1,311,000
GREATER GLASGOW	531.600	450,000	1,594,800	2,658,000
HIGHLAND	118.400	177,600	355,200	592,000
LANARKSHIRE	286.400	429,600	859,200	1,432,000
LOTHIAN	392.400	450,000	1,177,200	1,962,000
ORKNEY	11.800	17,700	35,400	59,000
SHETLAND	13.900	20,850	41,700	69,500
TAYSIDE	226.400	339,600	679,200	1,132,000
WESTERN ISLES	20.900	31,350	62,700	104,500
<u>OTHER</u>				
STATE HOSPITAL	14.000	21,000	42,000	70,000
CSA	86.000	129,000	258,000	430,000
MENTAL WELFARE COMMISSION	1.300	1,950	3,900	6,500

CENTRAL CONTRIBUTION TO DAMAGES AWARDS: 1998/99

HEALTH AUTHORITY	ESTIMATES FOR PATIENTS INCOME	MINIMUM AWARD FOR CENTRAL CONTRIBUTION 0.15% OF Col (2) WITH £450,000 CEILING	AWARD ABOVE WHICH CENTRALLY 0.3% OF Col (2)	ADDITIONAL COSTS MET	MAXIMUM EXPENDITURE BY EMPLOYING AUTHORITY IN FINANCIAL YEAR (0.5% of Col (2))
COL (1)	COL (2) £M	COL (3) £	COL (4) £	COL (5) £	
<u>NHS TRUSTS</u>					
Aberdeen Royal Hospitals	110.900	166,350	332,700	554,500	
Angus	41.800	62,700	125,400	209,000	
Argyll & Bute	31.700	47,550	95,100	158,500	
Ayrshire & Arran Community Healthcare	63.600	95,400	190,800	318,000	
Borders Community Health Services	27.500	41,250	82,500	137,500	
Borders General Hospital	31.200	46,800	93,600	156,000	
Caithness & Sutherland	16.500	24,750	49,500	82,500	
Central Scotland Healthcare	64.400	96,600	193,200	322,000	
Dumfries & Galloway Acute & Maternity	44.200	66,300	132,600	221,000	
Dumfries & Galloway Health Trust	39.300	58,950	117,900	196,500	

CENTRAL CONTRIBUTION TO DAMAGES AWARDS: 1998/99					
HEALTH AUTHORITY	ESTIMATES FOR PATIENTS INCOME	MINIMUM AWARD FOR CENTRAL CONTRIBUTION 0.15% OF Col (2) WITH £450,000 CEILING	AWARD ABOVE WHICH ADDITIONAL COSTS MET CENTRALLY 0.3% OF Col (2)	MAXIMUM EXPENDITURE BY EMPLOYING AUTHORITY IN FINANCIAL YEAR (0.5% of Col (2))	
	COL (1)	COL (2) £M	COL (3) £	COL (4) £	COL (5) £
NHS TRUSTS					
Dundee Healthcare		55.300	82,950	165,900	276,500
Dundee Teaching Hospitals		112.900	169,350	338,700	564,500
East & Midlothian		40.800	61,200	122,400	204,000
Edinburgh Healthcare		80.900	121,350	242,700	404,500
Edinburgh Sick Children's		26.500	39,750	79,500	132,500
Falkirk & District Royal Infirmary		35.300	52,950	105,900	176,500
Fife Healthcare		63.300	94,950	189,900	316,500
Glasgow Dental Hospital & School		9.300	13,950	27,900	46,500
Glasgow Royal Infirmary University		125.200	187,800	375,600	626,000
Grampian Healthcare		119.600	179,400	358,800	598,000

CENTRAL CONTRIBUTION TO DAMAGES AWARDS: 1998/99

HEALTH AUTHORITY	ESTIMATES FOR PATIENTS INCOME	MINIMUM AWARD FOR CENTRAL CONTRIBUTION 0.15% OF Col (2) WITH £450,000 CEILING	AWARD ABOVE WHICH ADDITIONAL COSTS MET CENTRALLY 0.3% OF Col (2)	MAXIMUM EXPENDITURE BY EMPLOYING AUTHORITY IN FINANCIAL YEAR (0.5% of Col (2))
COL (1)	COL (2) £M	COL (3) £	COL (4) £	COL (5) £
<u>NHS TRUSTS</u>				
Greater Glasgow Community & Mental Health Services	139.100	208,650	417,300	695,500
Hairmyres & Stonehouse Hospitals	50.000	75,000	150,000	250,000
Highland Communities	46.900	70,350	140,700	234,500
Inverclyde Royal	35.900	53,850	107,700	179,500
Kirkcaldy Acute Hospital	46.400	69,600	139,200	232,000
Lanarkshire Healthcare	91.500	137,250	274,500	457,500
Law Hospital	55.400	83,100	166,200	277,000
Lomond Healthcare	33.300	49,950	99,900	166,500
Monklands & Bellshill Hospitals	51.800	77,700	155,400	259,000
Moray Health Services	33.800	50,700	101,400	169,000
North Ayrshire & Arran	76.200	114,300	228,600	381,000

CENTRAL CONTRIBUTION TO DAMAGES AWARDS: 1998/99

HEALTH AUTHORITY	ESTIMATES FOR PATIENTS INCOME	MINIMUM AWARD FOR CENTRAL CONTRIBUTION 0.15% OF Col (2) WITH £450,000 CEILING	AWARD ABOVE WHICH ADDITIONAL COSTS MET CENTRALLY 0.3% OF Col (2)	MAXIMUM EXPENDITURE BY EMPLOYING AUTHORITY IN FINANCIAL YEAR (0.5% of Col (2))
COL (1)	COL (2) £M	COL (3) £	COL (4) £	COL (5) £
NHS TRUSTS				
Perth & Kinross Healthcare	66.900	100,350	200,700	334,500
Queen Margaret Hospital	42.400	63,600	127,200	212,000
Raigmore Hospital	55.100	82,650	165,300	275,500
Renfrewshire Healthcare	66.600	99,900	199,800	333,000
Royal Alexandra Hospital	47.100	70,650	141,300	235,500
Royal Infirmary Edinburgh	135.000	202,500	405,000	675,000
Scottish Ambulance Service	86.200	129,300	258,600	431,000
Stobhill	53.600	80,400	160,800	268,000
South Ayrshire Hospital	49.600	74,400	148,800	248,000
Southern General Hospital	86.100	129,150	258,300	430,500
Stirling Royal Infirmary	41.600	62,400	124,800	208,000
Victoria Infirmary	56.300	84,450	168,900	281,500

CENTRAL CONTRIBUTION TO DAMAGES AWARDS: 1998/99

HEALTH AUTHORITY	ESTIMATES FOR PATIENTS INCOME	MINIMUM AWARD FOR CENTRAL CONTRIBUTION WITH 0.15% OF Col (2) WITH £450,000 CEILING	AWARD ABOVE WHICH ADDITIONAL COSTS MET CENTRALLY 0.3% OF Col (2)	MAXIMUM EXPENDITURE BY EMPLOYING AUTHORITY IN FINANCIAL YEAR (0.5% of Col (2))	
	COL (1)	COL (2) £M	COL (3) £	COL (4) £	COL (5) £
NHS TRUSTS					
West Glasgow Hospital University		113.000	169,500	339,000	565,000
West Lothian		65.400	98,100	196,200	327,000
Western General Hospitals		78.500	117,750	235,500	392,500
Yorkhill		53.700	80,550	161,100	268,500

CLINICAL RISK MANAGEMENT: STANDARDS CHECKLIST

General

Risk management may be defined as a systematic approach to:

- identifying, classifying, evaluating and reducing or eliminating risks, injuries or infections to patients, staff or visitors;
- administering a cost effective method for handling complaints and claims.

This covers all areas of activity within a Trust or hospital, including accident prevention and loss control. Clinical risk management is primarily concerned with risks, injuries or infections sustained by patients as a result of actions carried out by doctors, nurses or paramedical staff.

Providers should be committed to managing clinical risk throughout their organisation, having:

- a written risk management strategy agreed by managers and endorsed by their Board;
- a clinical risk management system, with an action plan for reducing key risks identified for urgent attention;
- a Risk Manager.

The Risk Manager will have access to clinical information and ideally should report to an Executive member of the Board. Responsibilities of the post might include:

- ◆ ensuring appropriate training for new staff
- ◆ development of clinical guidelines and protocols (in conjunction with clinical directors)
- ◆ ensuring adequate communication with patients and relatives
- ◆ monitoring adverse occurrence screens
- ◆ handling of complaints
- ◆ arranging continuing education for clinicians

The Components of Clinical Risk Management

Supervision and Training

- ⇒ Induction or orientation programmes for all new clinical staff
- ⇒ Early experience in straightforward practical procedures for new clinical staff.
- ⇒ Appropriate degrees of consultant supervision, commensurate with doctor's experience and known capabilities.

Medical Records

- ⇒ Comprehensive system for the completion, use, storage and retrieval of medical records.
- ⇒ Record-keeping standards monitored through the clinical audit process.

Communications with Patients and Relatives

- ⇒ Appropriate information provided on the risks and benefits of proposed treatment or investigation before consent signature sought.

Handling of Complaints

- ⇒ Agreed system in place with clear identification of clinical complaints, as opposed to more general complaints

Clinical Incident Reporting System (CIRS)

- ⇒ Operated in all medical specialties and clinical support departments.
- ⇒ To record all unexpected events occurring during treatment, or unexpected result of treatment which may, or does, cause harm to the patient.
- ⇒ Essential that all such incidents recorded to form a database.
- ⇒ Incidents investigated timeously and action taken to limit damage and prevent recurrence.
- ⇒ Regular review of database, practices and protocols with feedback to staff.

Techniques of Clinical Risk Management

- Complaints Audit
- Adverse Occurrence Screening
- Clinical Guidelines and Protocols
- Regular Review of CIRS database
- Liaison with Central Legal Office