

May 1st 2009

To: **Chief Executives and Finance Directors**
All NHS Bodies



Napier House
24 High Holborn
London
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Dear Colleagues

Apologies and Explanations

Tel: 020 7430 8700

I am pleased to report that the Authority's letter of 15 August 2007, on providing apologies and explanations to patients or their relatives, has been updated and endorsed widely by other organisations, so it seemed appropriate to reissue it with those endorsements included. To ensure the widest possible distribution to staff in the NHS and beyond, the co-signatories have all incorporated links to this letter on their own websites. To reduce the possibility of misunderstandings by front-line staff, the original letter has been reworded slightly in places.

Apologies

It is both natural and desirable for clinicians who have provided treatment which produces an adverse result, for whatever reason, to sympathise with the patient or the patient's relatives; to express sorrow or regret at the outcome; and to apologise for shortcomings in treatment. It is most important to patients that they or their relatives receive a meaningful apology. We encourage this, and stress that apologies do not constitute an admission of liability. In addition, it is not our policy to dispute any payment, under any scheme, solely on the grounds of such an apology.

Explanations

Patients and their relatives increasingly ask for detailed explanations of what led to adverse outcomes. Moreover, they frequently say that they derive some consolation from knowing that lessons have been learned for the future.

In this area, too, the NHSLA is keen to encourage both clinicians and NHS bodies to supply appropriate information whether informally, formally or through mediation.

Explanations should not contain admissions of liability. For the avoidance of doubt, the NHSLA will not take a point against any NHS body or any clinician seeking NHS indemnity, on the basis of a factual explanation offered in good faith before litigation is in train. We consider that the provision of such information constitutes good clinical and managerial practice.

To assist in the provision of apologies and explanations, clinicians and NHS bodies should familiarise themselves with the guidance on Being Open, produced by the National Patient Safety Agency and available at www.npsa.nhs.uk/nrls/alerts-and-directives/notices/disclosure/

Formal Admissions

In keeping with our financial and case management responsibilities, the NHSLA will make or agree the terms of formal admissions within or before litigation. This circular is intended to encourage scheme members and their employees to offer the earlier, more informal, apologies and explanations so desired by patients and their families.

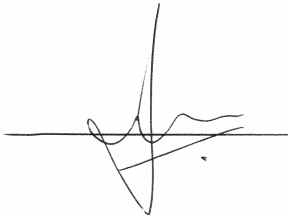
Medical Defence Organisations

It is critically important to note that all of the above applies to the provision of NHS indemnity to NHS bodies and employees. Should any individual clinicians wish to adopt a particular policy vis a vis apologies and explanations, in a matter which might expose them to an action brought against them as an individual, they should seek the advice of their medical defence organisation and/or professional body.

Staff Support

We should not lose sight of the traumatic effect that adverse outcomes, and their aftermath, might have on NHS staff as well as on patients and their relatives. Some may find compliance with these recommendations cathartic or therapeutic; others will not. None will find compliance easy. Recognising this, employers should do whatever is necessary by way of offering training, support, counselling or formal debriefing.

Yours sincerely

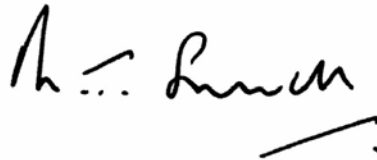


Stephen Walker CBE
Chief Executive

We endorse the NHSLA guidance on apologies and explanations.

For many years we have advised our members that, if something goes wrong, patients should receive a prompt, open, sympathetic and above all truthful account of what has happened. Any patient who has had the misfortune to suffer through an error of whatever nature should receive a full explanation and a genuine apology. We encourage members to adopt this approach. There are no legal concerns about taking this course of action: it is quite different from admitting liability.

Dr Michael Saunders
Chief Executive
Medical Defence Union



Dr Stephanie Bown
Director of Policy and Communications
Medical Protection Society



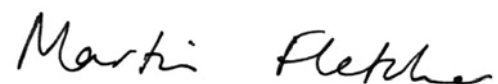
Dr Jim Rodger
Head of Professional Services
Medical and Dental Defence Union of Scotland



Dr Peter Carter
Chief Executive and General Secretary
Royal College of Nursing



Martin Fletcher
Chief Executive
National Patient Safety Agency



Dr Hamish Meldrum
Chairman of Council
British Medical Association



The GMC fully supports this advice from the NHSLA. If something goes wrong, patients deserve an apology and a full explanation. In *Good Medical Practice* we say ‘if a patient under your care has suffered harm or distress, you must act immediately to put matters right, if that is possible. You should offer an apology and explain fully and promptly to the patient what has happened and the likely short-term and long-term effects.’

Finlay Scott
Chief Executive
General Medical Council

