Written evidence submitted by the Society of Clinical Injury Lawyers (MSE0068)

Health and Social Care Select Committee

Call for evidence

Safety of maternity services in England

SUBMISSION BY THE SOCIETY OF CLINICAL INJURY LAWYERS (SCIL)

The committee has invited written submissions upon, (amongst others), the following point:

- the contribution of clinical negligence and litigation processes to maternity safety, and what changes could be made to clinical negligence and litigation processes to improve the safety of maternity services;

The Society of Clinical Injury Lawyers (SCIL) is a legal membership organisation, representing over 80 of the specialist clinical law practices in England and Wales. As such, our members represent many families who have unfortunately suffered a stillbirth or a child born with medical injuries, many of them in situations where allegations that clinical negligence have contributed to the stillbirth or injury will be proven, and many of whom also represent families at Inquests into stillbirth deaths. It is on that basis, and using the combined knowledge and expertise of that membership group, that this response to the consultation is submitted. We would make the following general points as a background to our response to this consultation:

- Patient safety learning has to be the key to improving the safety of maternity services, this must be underpinned by policy objectives;

- Transparency and independence in using the litigation processes to better determine the causes of, and learning from, stillbirths will need funding for families to be empowered to take part in those litigation processes and investigations to fulfil the policy objective of improving the safety of maternity services and giving parents an opportunity to express their views in a meaningful way. As such, this forms part of the current debate about clinical negligence litigation funding, especially where, as with stillbirths or birth injuries, the investigation involves a state organisation which will be well able to fund its legal representation.

1, '*The contribution of clinical negligence and litigation processes to maternity safety*.'

Parents typically approach clinical injury lawyers when their concerns over a still birth or medical injuries to a child have not been listened to or an adequate response given. The internal complaints process may not have been pursued due to a lack of knowledge or an inadequate initial response. Clients often report their perception of a 'closing of ranks' by the medical professionals. The initial contribution of the clinical injury lawyer is often to 'signpost'

the parents to the option of the NHS internal complaints procedures. Alternatively, the response is to sympathetically listen but to ultimately explain that the events leading to an injury or stillbirth are not of a nature to justify further investigation by a clinical injury lawyer. This first sifting of complaints, concerns and grievances is a significant input of time by the profession and greatly benefits maternity services by pushing parents toward internal NHS complaints processes where it is appropriate to do so. In undertaking this 'first sift' of parent contacts it is important for lawyers to have confidence that the NHS complaints procedures are there to investigate events and improve patient safety. Parent's perceptions are often that complaints processes are to just 'close ranks' and fend off a stream of complaints.

Approximately 75 % of initial enquiries and investigations are not pursued which means that many cases are investigated and answers obtained when the hospital could have discussed and been more open and frank which in turn would avoid the further investigation in many cases.

Those incidents that are accepted by clinical injury lawyers for further investigation will be either the small number of incidents where mistakes have clearly been made and accepted by the maternity services or the even smaller number where events are uncertain or the responsibility for injury is disputed.

Where mistakes or avoidable injury are clear and accepted, the role of the clinical injury lawyer is to ensure appropriate financial remedy which relieves a burden which would otherwise fall on other elements of the state and society. By calculating and placing a financial cost on mistakes the litigation process enables and encourages the identification of systematic improvements or training needs in priority areas.

In the small number of cases where responsibility for stillbirths or injury is disputed, the litigation process requires the investigation of events by medical specialists and the close scrutiny of medical records. The benefit to the safety of maternity services lies in obtaining the view of an appropriately qualified and independent expert whose first duty is to the court. Consideration of these reports in the wider context of patient safety should be given outside of the specific litigation or individual case to which the report relates.

In disputed cases the litigation process relies heavily upon the production and scrutiny of medical records. By requiring full disclosure the litigation process requires and enforces the keeping of full and detailed records for each patient. Keeping such records requires and ensures the provision of maternity services is recorded and monitored.

Finally, overall monitoring of clinical injury litigation allows the identification of trends, issues or hot spots in patient safety and for issues to be addressed.

2. *'What changes could be made to clinical negligence and litigation processes to improve the safety of maternity services.'*

The impartiality, investigative powers and funding of the NHS complaints procedures should be strengthened to give parents and the lawyers advising them, confidence in the procedures as a means of obtaining knowledge about events and improving patient safety. Parents will often say to their clinical injury lawyer that their prime motivation is to ensure that other patients are made safe. The phrases "it is not about the money" and " I do not want this to happen to somebody else" are frequent and the experienced lawyers within our organisation will readily confirm that most clients are reluctant to pursue cases for fear of doing wrong or for getting someone into trouble.

There needs to be a shift in the language and thinking about clinical injury compensation. All too often it is thought of in terms of being a 'windfall' for the child or parents rather than the carefully calculated recompense to meet future costs of care. Rather, it should be used to identify and properly cost the effectiveness of reforms or new procedures or equipment.
Funding needs to be available for parents to pursue the litigation process. This must include funding for 'low value' cases. The safety of maternity services can be monitored and improved when cases are capable of being funded when appropriate. If 'low value' cases are effectively incapable of being pursed via litigation the incentive and monitoring of clinical issues behind such cases will be absent.

Patient Safety and Proposed Reform of Litigation Processes

SCIL wishes to bring to the attention of the Committee that it has been a participant in a working party of the Civil Justice Council which was set-up in May 2018, tasked to report back to The Ministry of Justice on proposals to introduce Fixed Recoverable Costs in clinical negligence cases below £25k. The CJC Working Group report was considered by the CJC in October 2019 before being passed to the Ministry of Justice and the Department of Health and Social Care who will consider these recommendations prior to going out to further consultation with any further FRC proposals.

The proposed process is not an improvement on the current system: it increases the amount of work required to be carried out and, if costed fairly, would increase the costs of bringing a claim. The proposed process would favour Defendants and infringe Claimants' rights to judicial determination of their claims. The process makes no reference to or provision for learning and improving patient safety – which should be central to efforts to reduce the cost of clinical negligence.

The foreseeable consequences of introducing this process for fixed costs, particularly at the levels proposed by the Defendants and the CJC, is that specialist lawyers will no longer be able to act for the victims of clinical negligence. Victims will be forced to act as litigants in person or to instruct non-specialists, claims farmers or unregulated, unqualified and uninsured paid McKenzie friends in an attempt to obtain access to justice, which will increase demand upon judicial/court resources and so offset any costs savings.

The process fails to meet the CJC terms of reference, most strikingly in relation to patient safety and is not supported by SCIL who have developed and alternative scheme.

This is attached below as an Appendix for the attention of the Committee.

For and on behalf of SCIL

4 September 2020

The SCIL Scheme

Society of Clinical Injury Lawyers

Introduction from Paul Rumley, Chairman of SCIL:

'It is with pleasure that I invite you to read, study and debate this document which has been carefully prepared by my colleagues and their Advisors within The Society of Clinical Injury Lawyers.

SCIL is a fascinating organisation. We represent nearly 90 specialist firms employing thousands of people across England and Wales who are real experts in their field.

We are not the clichéd 'Ambulance chasers' or even worse hard-nosed uncaring legal professionals attempting to maximise profits above client interests.

Far from it, we are the experts who screen out cases we judge 'unjustified' or 'unlikely to succeed' and therefore keep away many erroneous or simply unsubstantiated cases from the NHS. At the centre of what we do is, so often, human pain and tragedy. Child deaths, unforeseen injuries and mental suffering, years of being confined to wheelchairs, bed and sometimes, round the clock treatment and care.

We are the people who deal with innocent victims of medical or surgical injury when they or their relatives are facing the consequences of life changing accidents which may require treatment and support for years and decades. Sometimes they are grieving or sadly know they will grieve within time, because something went wrong.

Sometimes people just seek answers. Sometimes people just seek an apology. Sometimes they need guidance because they don't know how to get answers and very often the medical system has closed doors, frustrated their inquiries or carried out unsatisfactory and inadequate investigations.

We are also firms which carry most of the risks in these cases, along with our insurers, as the changes to Legal Aid have meant that only those with significant personal resources or personal insurance are likely to be able to finance cases which can often take years to settle and sort.

This document and our campaign against Fixed Recoverable Costs (FRC) further demonstrates our commitment to support our clients, future clients and the constituents of MPs across the country.

How? Because we believe it is naive to simply imply that by capping the fees of one side you can make the system work better.

You have to change the system. You have to ensure it can be more efficient and more cost effective and not simply hit one side and hope the other side will simply settle cases sooner when they have a reputation, unfortunately, of a culture of 'deny, defend and delay' as so aptly put by Lord Garnier QC when he was a Conservative MP.

This Scheme, which is supported by AvMA, the leading body which represents the health charities and victims, should save money if policed properly; places Patient Safety at its heart and also keeps my members, specialists in their own right, at the centre of these complex medical cases.

That is a prize worth fighting for and I and our members are determined to do everything we can to encourage the NHS to learn faster and better from mistakes; to be more open and candid when things go wrong and to resolve matters within a reasonable space of time and not for years and years.

Please read this carefully, discuss with me and colleagues and together we can preserve something precious – the right to justice and specialist advice for everyone – while also saving the NHS and Her Majesty's Government much needed money.

Thank you.

Paul Rumley, Chairman of SCIL.

<u>Why The SCIL Scheme Counts and is backed by AVMA:</u>

‘AvMA (Action against Medical Accidents - the UK charity for Patient Safety and Justice) welcomes the SCIL scheme and would support a pilot of this plan and consideration of any suitable alternatives to a crude ‘fixed costs’ approach.

The scheme prioritises the key issues of patient safety and the NHS learning from litigated cases, which AvMA has championed. This is missing so far from the government led discussions, which have been focused on bringing in fixed costs at all costs, with little attention being given to the root causes of high costs in clinical negligence cases or alternatives to a crude fixed costs approach. It is commendable that specialist claimant lawyers are coming up with potential solutions such as this to try to preserve access to justice and promote patient safety as well as reduce costs.

It is vital that specialist claimant solicitors continue to be able to offer expert legal advice and representation to people who have often suffered life-changing harm as a result of clinical negligence. The fact that specialists believe they can do that under this scheme is encouraging.

We also welcome the fact the SCIL scheme doesn’t hinder the vital work of Expert Witnesses by capping their fees in these often complex medical and legal matters. It also provides the opportunity for defendants to settle at an earlier stage avoiding the unnecessary anxiety which so many people affected by clinical negligence face due to prolonged denials and delay.

It is vital that any proposed new scheme or approach is judged according to whether it preserves access to justice (including protecting claimants’ damages as far a possible) and supports learning for patient safety as well as reducing unnecessary legal costs.

Peter Walsh, CEO, AvMA

Lisa O’Dwyer, Medico-Legal Services Director.

Executive Summary:

1) SCIL believes that this Scheme prioritises Patient Safety and will improve ‘learning’ within the National Health Service – key tenets set out by the Department of Health and Social Care and demanded by victims of clinical negligence and accidents.

2) Innocent victims often demand no more than an apology, assurances that there will be no repetition (to avoid unnecessary suffering) and clarity in what happened and why?

3) The current system should work to answer their concerns but so often a 'duty of candour' is obscured and victims are forced to turn to specialists to get the answers they need through legal, court or Coroners services.

4) SCIL believes that this new scheme should end the obfuscation and a culture which prevents not eases 'learning'.

5) SCIL believes that this Scheme will avoid the foreseeable and damaging pitfalls of the Government's plan for Fixed Recoverable Costs (FRC).

6) FRC is no more than an arbitrary plan to cap the costs of one side – claimant lawyers - without improving performance by the defendants who have been accused in Parliament of a culture of 'deny, defend and delay' often stretching cases for months and even years and avoiding early settlement or simple explanation.

7) This Scheme will give innocent victims continued access to expert and specialist lawyers often at a time of confusion, upset and pain in their lives or the lives of their relatives who may be facing life-changing circumstances and need care for decades or for the rest of their lives.

8) Many victims are the grieving parents or relatives of deceased patients.

9) This Scheme will allow SCIL's members across England and Wales the opportunity to provide these specialist skills to patients and constituents and to continue to 'screen out' cases which have little or no merit – thousands are screened out each year – saving the taxpayer money and making the legal process more efficient for the NHS.

10) The Scheme requires changes in the behaviour and actions of the NHSR (NHS Resolution) and Trusts which should ensure, if policed, a more effective and cost saving system welcomed by victims.

11) SCIL – using official data – believes that the Government has overlooked the impact of changes and savings already introduced in earlier years.

12) SCIL believes:

'That of the 1,480 cases below £25,000 that the NHSR (NHS Resolution) settled in 2017/2018, (based on their own figures) total claimant solicitor costs were £14.8million.

This figure is down on previous years.

SCIL believes that by maintaining the current trajectory (and changes in Defendant behaviour) which shows an increase in the number of cases settled pre-issue from 63% to 75% savings are already forthcoming.

Currently this runs at an annual saving of 10% year-on-year.

If this is maintained it would lead to a further 10% saving.

This behavioural change, along with the introduction of The SCIL Scheme could further reduce costs without damaging Patient Safety, Access to Justice and the ability of the NHS to learn.'

13) SCIL is calling for the introduction of a pilot scheme to prove this.

14) The call for a pilot is backed by AvMA (ACTION AGAINST Medical Accidents) which speaks for the charitable sector and victims within the health sector.

15) The SCIL Scheme is presented for debate and consultation.

16) We would like the UK Government, the devolved powers within England and Wales and the Civil Justice Council's Working Party on Clinical Negligence to now engage in the debate and turn away from the myopic focus on FRC.

Introduction

What originally started out as a proposed scheme to cut costs and save money has expanded to incorporate a review of various factors that drive clinical negligence litigation and the costs and damages necessarily incurred in recompensing those who have been injured through no fault of their own whilst undergoing medical treatment provided by the NHS. This has enabled a far better outcome for the NHS and for its patients as well as for the taxpayer.

In the time that has elapsed since the initial consultation paper of January 2017 dealing with proposals for fixed recoverable costs, there has been:

- an improvement in the awareness of staff and the implications for staffing levels of the impact of mistakes having been made;
- a greater acceptance of the duty of candour and the starting of a fostering of a "no blame culture";
- a review of the function of the NHS Litigation Authority (now NHS Resolution);
- the introduction of the Health Care Safety Investigation Bill;
- genuine communication with those representing injured patients with the intention to improve patient safety in the short and long term.

What Lies Ahead?

1. The above has led to the creation of a better framework for accountability of staff both medical and administrative within the NHS. Private health care providers will need to follow suit. Opportunities should now exist for SCIL to be consulted regularly on patient safety issues by the NHS. Consultation with those representing patients injured through mistakes and not just data analysis from those employed to defend the NHS in litigation will provide a more complete view of the issues facing the NHS.
2. 'Black box' type investigations should take place. The Health Care Safety Investigation Board (HSIB) has been set up to deal with this type of investigation. However, SCIL proposes that 'Trust patient safety champions', should be appointed in each Trust and/or 'patient safety champions', where appointed by alternative healthcare providers, to enable investigation of a significantly larger number of areas of concern beyond the 30 or so issues that the HSIB have been scheduled to undertake on an annual basis.
3. It is envisaged that the 'safety champions', will be created by new consultant appointments or appointments of individuals in other specialisms at an equivalent Managerial/Director grade across the country. This will need investment by the Department of Health in increased staffing, improvement in a learning culture and a more rapid assessment of defensibility of potential claims. Staff morale should improve and staff will not be diverted away from frontline services as much due to earlier proper assessment as defensibility of cases. The holding of the position of 'safety champion' will be time limited to ensure that professional expert witnesses are not inadvertently created without them having an ongoing

professional practice and also to ensure a further method of dissemination of learning from past incidents.

Trusts should notify HSIB of the identity of their PSC and HSIB could run mandatory cases for PSCS.

4. The 'safety champions' will need to be given autonomy to make decisions. They should report to NHSR to advise on risk and potential legal action, thereby reducing delay caused by rigorously defending claims that can achieve early settlement. It should also be within the remit of a safety champion to refer matters to the Care Quality Commission for any further action the CQC considers necessary.

5. 'Safety Champions' should request cases from clinical negligence practitioners in order to consider lessons learned. They should also have an obligation to write to NHSR/alternative healthcare providers to confirm lessons learned. Keep a record of repeat offenders, training and monitoring etc. Patient safety should be added to Board Agendas and 'safety champions' should also attend Board Meetings on a quarterly basis in order to provide an update to Trustees on patient safety.

5. Although the 'duty of candour' is in place, it is not uniformly being implemented by Trusts. If there is no candour, if medical accidents occur, it will impact on learning. The NHS will save significant costs when medical accidents are shared and lessons are learned; negligent mistakes are admitted early and there is a willingness to enter into meaningful discussions to settle claims early. 'Safety champions' would ensure that this is achieved, as the current system is failing and costing the NHS millions.

6. Patient safety is the most important factor. When things go wrong, resulting in negligence, patients should be able to have a right of redress. On that basis, claims in themselves are not entirely a negative factor but are also learning opportunities. A more robust complaints system would help to produce solid learning opportunities and may head off claims and/or provide evidence to foreshorten the claims process. 'Safety champions' within Trusts and/or 'safety champions', where appointed by alternative healthcare providers, are the suggested way to deliver that.

7. Concerns have been expressed as to the financial impact of clinical negligence litigation. Some of these concerns are unwarranted and ill-informed but some are possibly justifiable. There is a perception that litigation is expensive and longwinded. How have these perceptions arisen? Claimant's representatives argue that those representing the Defendants operate a system of 'deny, delay and defend'. Those representing Defendants allege that Claimant solicitors make far too much money from clinical negligence litigation and the longer court cases go on, the more money Claimant lawyers make.

   It is understood that the NHSR panel of solicitors are paid on a 'stage reached' basis which means that more costs are paid to defendant solicitors the longer cases go on.

8. It should be noted that real cost saving will not arise out of any proposed scheme, but in the behaviour underlying the scheme.

9. Some decisions have been taken in the past which have led to unforeseen consequences such as the removal of legal aid to a very large extent and its replacement by conditional fee

agreements with success fees and 'after the event insurance'. Both sides question the capabilities and experience of those representing the others indicating that more experienced practitioners' progress cases more speedily and at reduced cost than inexperienced practitioners.

10. Accreditation in some shape or form would remove a significant amount of time and expense for both parties. Those representing Claimants indicate that NHSR have very few senior solicitors. Unqualified or very junior staff at NHSR tend to take unjustifiable positions (if 'patient safety champions' had reported early on, would such unjustifiable positions have been taken or maintained?).

Underlying principles

Any system of resolution of allegations of clinical negligence, whether that be outside a court process or within a court process:

- Must ensure that patient safety is paramount. On that basis where negligent treatment occurs, lessons MUST be learned. The 'patient safety champions' must be made aware of all pending claims for damages in which negligence has been alleged, against their Trust and/or alternative health provider where a 'patient safety champion' is appointed;

- Must provide real access to justice and therefore learning points for patient safety which in turn should reduce the number of claims;

- Must provide a streamlined claims process;

- Must be GDPR compliant;

- We need to retain legal specialism in this area of litigation, even though cases are likely to be pursued by more junior Fee Earners, to retain quality in the system - without that, the scheme won't work and therefore cost savings will be lost;

- The scheme is triggered upon the Claimant delivering to the Defendant a Letter of Intention to investigate a claim in which the Claimant gives notice that the potential value would fall within the scheme's maximum value of damages;

- If, on further investigation, it becomes apparent to the Claimant that the value exceeds the maximum permitted under the scheme, the Claimant must give written notice to the Defendant and with full explanation of reasons for the change in estimated valuation. There must be a full admission of liability, i.e. breach of duty and causation, to remain in the scheme;

- Where Defendants following investigation consider the value of the claim exceeds the scheme must give written notice to the Claimant;

- There is a need to retain the quality and independence of expert medical evidence in the scheme. In addition, SCIL propose that the Government should set up a panel of accredited experts where expert fees are to be appropriate to the case;

- Only for cases where one expert report is required to deal with breach of duty, causation and quantum;

- There must be sanctions for poor Defendant conduct, i.e. cases then fall outside of the scheme and if it does fall out of the scheme the normal rules of proportionality shall not apply to that case subsequently;

- For claims valued at up to £25,000;

- There has to be an automatic limitation waiver/standstill provision for all cases in the scheme;

- An organisation be appointed to monitor the operation of the scheme to provide independent overview.

Exceptions:

- Stillbirths
- All fatalities
- Child cases
- Cases with Litigation Friends including Claimants with mental capacity issues
- Claims involving multiple Defendants
- Claims involving foreign nationals, (on a discretionary basis) and British nationals where translation is required, due to language difficulties; translation of documents and/or accessing medical records outside the UK

There must be opportunities for early admissions as well as sanctions for unjustifiable delay in settling or progressing a case.

Admissions:

There are three opportunities for the Defendant to admit full liability:

(a) when the records are requested

(b) following Letter of intent to investigate a claim

(c) following Letter of Claim.

The Scheme Itself:

1. The application for copy medical records must be sent to the Legal Department of the Trust concerned or the Senior Partner of the GP Practice and provide an outline of the claim under investigation (not simply saying 'cancer misdiagnosis' but at what stage it is presently considered a cancer misdiagnosis may have taken place, albeit without the benefit of independent medical expert evidence at this stage).

Upon receipt of the application the potential Defendant must:

(i) Acknowledge receipt within 14 days – failure to do so will result in the case falling outside of the scheme;

(ii) Provide a complete set of the requested records in a standardised form, including radiology in a form that can be readily opened and copied, within 40 days – failure to comply with this timescale will result in the case falling outside of the scheme;

(iii) Check if there is a SUI report or duty of candour report in relation to the matter – if there is, it must be disclosed with the medical records i.e. within 40 days, and the potential claim notified immediately to the NHSR and/or professional indemnity insurer – failure to do so will result in the claim falling outside of the scheme;

(iv) If a SUI and/or duty of candour report is in the process of being prepared, it must be completed and made available within 56 days – failure to do so will result in the claim falling outside of the scheme;

(v) The Defendant must immediately notify NHSR and/or their professional indemnity insurer so that they can consider whether any admissions should be made at this stage – failure to do so will result in the matter falling outside of the scheme.

2. **Letter of Intention** to be sent within 28 days of complete copy records having been received and sorted and paginated and considered by the Claimant's solicitor. The letter must re-state the claim under investigation (including stating any draft allegations based on the records/documents obtained to date) and that this is an opportunity for the Defendant to admit liability before expert costs are incurred. If the Defendant requires copy records to consider the claim, they must pay for the copies.

Upon receipt of the Letter of Intention, the potential Defendant must:

(i) Acknowledge receipt within 14 days and request any records they require – failure to do so will result in the case falling outside of the scheme;

(ii) Provide a detailed response within 4 months – failure to do so will result in the case falling outside of the scheme;

(iii) Ensure that a copy of each Letter of Intention to investigate a claim is provided to the 'safety champion' within 14 days of its receipt by the potential Defendant.

3. A **Letter of Claim** should be served within 18 months of intention to investigate a claim sent to Trust and NHSR, specifying the factual background, allegations and that it is supported by independent expert evidence together with discipline of expert. Where independent expert evidence is not relied on the Claimant must indicate why not, e.g. it is based upon the

records or a SUI report, and certified by an AvMA or Law Society Clinical Negligence Panel member in the following suggested wording:

"I certify that this Letter of Claim is based upon expert evidence/the SUI report/the medical records/other (delete as appropriate)".

- In the event that the Defendant relies on evidence from a clinician, they must confirm whether they have and confirm the name of the clinician.

- There is to be no early disclosure of the Claimant's expert report as that is likely to lead to increased litigation behaviour and therefore costs and the scheme has to be kept very simple in order for it to work.

- A **fully reasoned Response to the Letter of Claim** must be provided within 98 days of its receipt by the potential Defendant - failure to do so will result in the case falling outside of the scheme.

- There is provision for one independent expert report per party who should not be a single joint expert.

- The strict timetable for both parties to respond is deliberate as it is only with a simple and therefore timely scheme that this can work. However parties can agree an extension of 28 days.

- No full admission of liability, i.e. breach of duty and causation, will automatically result in the case falling out of the scheme.

- Settlement of the claim and payment of compensation will be by negotiation between the parties or in default of which via an arbitration scheme set up by PIBA with effectively junior barristers on a panel approved by AvMA and DOH arbitrating but doing the same work as if they were offering an advice on quantum.

- Upon settlement of the claim and/or payment of any compensation, the Defendant will notify its 'safety Champion' of such a stage and/or outcome being reached.

- The 'safety Champion' shall, within 56 days of payment of any damages under the scheme, write to the Claimant setting out what lessons have been learned by the Defendant and any action taken or to be taken arising out of the subject matter of the claim and to write a letter of apology.

Clear distinctions must be made when reference is made to costs. 'Costs' are often used in a very broad fashion to define expenses in progressing a case but there are very often many subsections of costs that are largely out of the control of the successful parties' lawyers. These include such things as:

- Solicitors costs plus VAT
- Medical record fees
- Pagination costs
- Expert fee(s)
- Inquest costs (if applicable)
- Probate fees (if applicable)

Conclusion:

This proposed scheme avoids the pitfalls of others which have been placed on the table.

In other words, it avoids throwing specialist advice and access to expert lawyers out of the window; it avoids victims being forced into 'self-representation' in courts over often complex and distressing cases and it maintains the founding principles of our legal system – that people from any financial background can gain proper redress and compensation through our legal system.

Operated effectively it also ensures that the NHS will 'learn' from mistakes and hopefully will avoid them in the future.

For these reasons and because of the clear evidence that costs are already declining through earlier improvements we believe that this proposal will also be more cost effective, make savings and prove to be a much better system.

We commend it to you.

Key points:

SCIL believes that this Scheme prioritises Patient Safety and will improve 'learning' within the National Health Service – key tenants set out by the Department of Health and Social Care and demanded by victims of clinical negligence and accidents. Innocent victims often demand no more than an apology, assurances that there will ne repetition (to avoid unnecessary suffering) and clarity in what happened and why?

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15 September 2020