



Resolution

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Canary Wharf
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Telephone: 020 7811 2700

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FOI_6927

The following information was requested on 29 December 2024:

Dear NHS Resolution,

According to your website the CNST and ELS schemes exist to ensure that clinical negligence claims made against the NHS are handled fairly and consistently, and to support the NHS to learn from things that have gone wrong to improve patient and staff safety, with due regard to the interests of both claimants and the NHS.

NHS Resolution's claim is that they "seek to settle justified claims fairly and efficiently and to defend unjustified claims robustly".

- 1) How do you determine the difference between a 'justified' claim and an 'unjustified' claim?*
- 2) Who makes this decision?*

Our Response

The following guidance may help answer your questions -

<https://resolution.nhs.uk/services/claims-management/advice-for-claimants/>

If the parties cannot agree whether a claim is justified or not there are various ways in which the dispute can be resolved, such as mediation or early neutral evaluation. The clinical disputes we resolve are governed by the Ministry of Justice Pre Action Protocols and the Civil Procedure Rules, and so the ultimate determination, should the parties not be able to resolve the dispute, would be made by a judge in a court of law.

This concludes our response to your request.

If you are not satisfied with the service that you have received in response to your information request, it is open to you to make a complaint and request a formal review of our decisions. If you choose to do this, you should write to [Tinku Mitra](#), Deputy Director of Corporate and Information Governance, Data Protection Officer for NHS Resolution, within 28 days of your receipt of this reply. Reviews of decisions made in relation to information requests are carried out by a person who was not involved in the original decision-making about the request.

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner for a review of the decision. Generally, the Information Commissioner will not make a decision unless you have exhausted the local complaints procedure. The address of the Information Commissioner's Office is:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

<https://ico.org.uk/>