



Resolution

Reporting claims to NHS Resolution

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Introduction

This document sets out the requirements for when and how a member should report a new claim to NHS Resolution. It also provides other useful information such as: what to expect once a claim has been reported and common definitions. Members are required to have the necessary governance arrangements in place to be able to comply with this document [Sections 5.4 and 8.2 of the CNST Rules and Sections 5.4 and 9.1 of the LTPS rules].

We recommend that you always work from the electronic version of this guide. This is because the guidelines will evolve over time. For example, we will be providing more guidance notes to help support you and your staff. This means that accessing the electronic version will mean that you are working from the most recent version. We welcome your thoughts/comments on how to improve this document. Please contact us via the Forum section of the Extranet to provide your feedback or e-mail feedback@resolution.nhs.uk

When a claim should be reported to NHS Resolution

It is important that you identify and, where appropriate, report potential claims to us as early as possible. This will allow us to consider what, if any, pro-active steps (e.g. an early admission, offer or an apology) could be taken so as to minimise associated claims and/or will allow us to commence appropriate investigations. The following table sets out the triggers for when a claim should be reported to NHS Resolution and the applicable timescales. NHS Resolution may also accept cases falling outside the reporting criteria at its discretion.

Please note that non-clinical claims received via the Portal do not need to be reported to us **save for** the two important exceptions detailed below.

No	Situation	Action Required	Timescale
1	<p>Serious incident where investigations suggest there have been failings in the care provided;</p> <p>and</p> <p>There is the possibility of a large-value claim (i.e. damages >£500,000)</p>	Report to NHS Resolution irrespective of whether or a claim has been notified or a disclosure request received	As soon as possible but no later than 3 months from when you become aware of the matter
2	<p>Disclosure request (or some other indication that a claim is being considered – e.g. Limitation extension request) received;</p> <p>and</p> <p>Internal investigation (e.g. complaint review or incident investigation) reveals possibility of a claim with a significant litigation risk regardless of value.</p>	Report to NHS Resolution	As soon as possible but no later than 1 month from receipt of the disclosure request

3	<p>Letter of Claim served; and/or Part 36 offer received; and/or Proceedings received.</p>	Report to NHS Resolution using Claim Report Form	Within 24 hours of receipt with completed documentation to follow within 2 weeks
4	<p>Group Action – i.e. any adverse issue which has the potential to involve a number of patients (e.g. failure of a screening service)</p>	Report to NHS Resolution irrespective of whether or not claim(s) have been notified	As soon as possible but no later than 1 month from when you become aware of the matter
5	<p>Serial offender claims – i.e. claims arising from the alleged negligence and/or serious professional misconduct of a staff member affecting a number of patients</p>	Report to NHS Resolution irrespective of whether or not claim(s) have been notified	As soon as possible
6	<p>PORTAL ONLY: Defendant only – Claim Notification Form received; and The covering letter confirms that NHS Resolution have not been made aware of the claim via the Portal</p>	Report to NHS Resolution	Within 24 hours of receipt
7	<p>PORTAL ONLY: Defendant only – Claim Notification Form received from the Claimant solicitor; and No NHS Resolution contact received within 3 working days</p>	Contact NHS Resolution to discuss whether or not to report the claim to the NHS Resolution.	No more than 3 working days after receipt of the notification form
8	<p>Notification of inquest received; and Civil claim is or is likely to be pursued based on the subject matter of the inquest; and External representation at inquest is justified; and You wish to apply to the NHS Resolution for inquest funding.</p>	Report to NHS Resolution using a completed Inquest Funding Request form	No less than 1 month from the inquest hearing date

<p>9</p>	<p>Maternity Incident – Early Notification; all maternity incidents with incident date on or after 01.04.17 meeting the following criteria:</p> <p>Eligible babies include those born at term (≥ 37 completed weeks of gestation), following labour, that had a severe brain injury diagnosed in the first seven days of life</p> <p>These are any babies that had one or more of the following:</p> <ul style="list-style-type: none"> • Diagnosed with grade III hypoxic ischaemic encephalopathy (HIE) • Actively therapeutically cooled • Had all three of the following signs: decreased central tone; comatose; seizures of any kind. 	<p>Report to NHS Resolution using Early Notification Report Form</p>	<p>Within 30 days of incident</p>
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Please do not hesitate to contact your NHS Resolution Team Leader or Deputy for advice if you are unsure whether or not a potential claim should be reported to us.

All members should be familiar with the NHS Resolution guidance in '[Saying Sorry](#)' which confirms that we will never withhold cover because an apology or explanation has been given. If you need further help or support from NHS Resolution in this area you should not hesitate to contact your NHS Resolution Team Leader or Deputy.

What documents should be sent to NHS Resolution when reporting a claim

Providing us with the correct documents/information at the outset will help us to process the claim without delays. This section will help you to understand the sort of information we require and the documentation we have prepared to help support you in this regard.

It is no longer mandatory to complete a clinical claim report form when reporting claims. The Claims Reporting wizard will capture key information and import this into CMS on approval.

The wizard will capture your file reference at the time of reporting and, if approved, will automatically update CMS;

Inquest funding request forms still need to be submitted and sent in addition to the Useful Documents Guide. There is now a bespoke route for inquest funding requests – i.e. funding can be requested without a letter of claim/proceedings or a disclosure request;

LTPS claim report forms still need to be submitted and sent in addition to the Useful Documents Guide

You have a free text section to add a covering message to the NHS Resolution approver. This should be used to highlight matters such as any agreed limitation extension(s), associated disciplinary issues, whether there are potential third party issues, listed inquest date etc.; and

We ask you to provide additional data on:

- a) why the claim is being reported to NHS Resolution;
- b) when you were first notified of the claimant's intention to pursue a claim;
- c) where the incident took place;
- d) whether there was an associated complaint and/or incident investigation;
- e) the estimated valuation of the claim if successful; and
- f) the probability of the claim succeeding.

The following supplementary documents will support you in providing the relevant information/documentation when reporting a claim:

- 1) Clinical Claim Useful Documents Guide
- 2) Clinical Witness Details Form
- 3) LTPS Claim Useful Documents Guide
- 4) LTPS Witness Details Form
- 5) LTPS Witness Statement template
- 6) LTPS Earnings Schedule for EL claims

The report forms and supplementary documents are located in the Extranet here: **Documents → Policies and Procedures → Reporting Guidelines → Key Documents.**

A Useful Documents Guide should always be completed when reporting a claim to us. However, we accept that, sometimes, it will not be possible to collate all of the relevant documentation/information whilst complying with the timescales detailed in the 'When should a claim be reported to NHS Resolution section?' In such cases, please provide us with any outstanding information/updated documentation within 2 weeks of reporting the claim to us. We recommend that you complete all of our forms electronically so that, where necessary, data fields can be expanded to include all relevant information and the documents can be easily updated at a later date.

It is no longer compulsory to submit a completed Preliminary Analysis when reporting a new claim to NHS Resolution. This is because CMS, the claim report forms and supplementary documents will capture the initial information that we require to consider a claim.

All key documentation should be sent to us as separate documentary enclosures. For example, an incident investigation should be sent to us in the following format:

- 1) Final investigation report and action plan;
- 2) Final witness comments upon which the investigation report was based; and
- 3) The remaining incident file containing draft reports, draft statements etc.

How to report a claim to NHS Resolution

Members are encouraged to report all clinical (including inquest funding requests) and non-clinical claims to NHS Resolution using the Claims Reporting Wizard. This can be accessed by following the “Report a Claim” link on the Extranet Home page:



The Claims Reporting Wizard will shortly be extended to enable reporting of most types of clinical and non-clinical claim to us. Please note that the latest guidance for using the Wizard will always be located on the Extranet here: Document Library → Guidance Notes.

Please note that PES claims should not be reported through the Wizard. Completed PES claim report forms should, instead, be sent to NHS Resolution at pes@resolution.nhs.uk.

What you can expect from us once a claim has been reported

- We will acknowledge receipt of claim correspondence and liaise with the Claimant or the Claimant’s representatives on your behalf
- We will register the claim with the Compensation Recovery Unit and manage correspondence with them
- We will reply to all claims correspondence on your behalf (either ourselves or via our legal panel)
- We will seek your approval before making any liability admissions
- We will keep you updated at key stages throughout the claim
- We will provide you with support with press enquiries and MP involvement about the claim on request

What we expect from you once a claim has been reported

- We will expect you to preserve the necessary notes, records and other key documentation
- We will expect you to respond promptly to our requests for instructions
- We will expect you to keep your members of staff updated as to the progress of a particular claim and its outcome

- We will expect you to help ensure that any learning from this claim is considered by the relevant internal department
- We will expect you to contact us to discuss any potential issues as and when they arise

Supplementary Guidance

We hope that the following guidance notes will help you to comply with these Guidelines:

- 1) Limitation of actions in clinical negligence: a basic guide (Extranet location: Documents → Document Library → Guidance Notes)
- 2) Benefits of Mediation (Extranet location: Documents → Document Library → Guidance Notes)
- 3) Guidance on reporting requests for inquest funding - April 2014 (Extranet location: Documents → Document Library → Inquest Funding under CNST)

Please do not hesitate to contact your NHS Resolution Team Leader or Deputy with any suggested topics for further guidance notes or tips.

Key definitions

Terminology	Definition
Notification date	The date you were first made aware of the likelihood that a claim was or was likely to be pursued – e.g. receipt of a request for disclosure of medical records. For Early Notification Incidents this will be the same as the Incident Date.
Incident date	Date of the incident noting that the earliest date should be provided where multiple allegations are involved
Description of incident	Brief summary of the key facts involved in the claim. This should not include any information that could identify the patient or any member of staff or contain any specific dates/location details

Queries

Please do not hesitate to contact us should you wish to discuss the contents of this document. Queries should be directed to your designated Team Leader in the first instance or any of the Heads of Claims.

Version control

Date of Change	Version	Brief summary of changes
April 2014	1.01	<ul style="list-style-type: none"> • Simplification of reporting guidelines for both clinical and non-clinical schemes with merger into one document • Dispensed with the need for Preliminary Analysis to be submitted with new claims • Introduction of Claim Report Forms for clinical and non-clinical claims and updated inquest funding request form • Introduction of Useful Document checklists to be used when reporting claims to NHS Resolution • Introduction of Witness Details Forms • Introduction of LTPS specific documents such as the Earnings Schedule and witness statement templates
May 2017	1.02	<ul style="list-style-type: none"> • Removal requirement for claim report forms when reporting clinical claims • Change in inquest funding notifications • Addition of Early Notification Reporting