

When and how to report a claim

Clinical Negligence Scheme for General Practice
(CNSGP) reporting guidelines

Our aim

NHS Resolution's aim is to help you to resolve any claim for compensation brought against you by a patient in relation to their clinical care under the NHS as fairly and as quickly as possible. Claims will be investigated thoroughly and compensation will be paid where our investigation confirms that this is due. Where that is not the case, we will defend the case on your behalf, calling upon the very best expertise to do so. In all cases, we will do all that we can to keep the matter out of formal court proceedings. Your input will be crucial to the outcome and so we will work hand in hand with you from start to finish.

What does the scheme cover?

The state scheme covers **claims for compensation arising from the care, diagnosis and treatment of a patient** as part of the NHS in England following incidents which happen on or **after 1 April 2019**. For claims which concern incidents which happen **before 1 April 2019**, you should go to the MDO or indemnity provider which provided your indemnity at that time. Where there is a sequence of events which straddles both the pre and post 1 April 2019 period, the scheme will be relevant only to the element which relates to the 'post' 1 April 2019 period and we will work closely with the MDO or indemnity provider providing indemnity for the 'pre' period to resolve the matter.

Cover arising from the care, diagnosis and treatment of a patient is unlimited and comprehensive. All compensation costs and legal costs will be met by NHS Resolution on your behalf, subject to compliance with scheme rules. You do not have to worry about excesses, exclusions or limits of indemnity, which do not apply to the state scheme where a liability arises from the care, diagnosis and treatment of a patient under the NHS.

CNSGP does not cover the activities listed below which is not an exhaustive list and so, if in doubt, you should discuss the particular circumstances or issue with your MDO or indemnity provider or contact NHS Resolution.

- Non-NHS work
- Disclosure of record requests from patients (where there is no intimation of a claim and it is not a request from the patient's solicitor)
- Complaints (where there is no intimation of a claim)
- GMC inquiries and representation
- CQC investigations
- Inquest Representation
- Disciplinary proceedings against you or your staff
- Awards made by the Parliamentary Health Service Ombudsman (unless there is an overlap with compensation payable for an injury resulting from clinical negligence)

- Ex-gratia payments
- Defamation claims
- Breach of Data Protection Regulations
- Employers' liability claims
- Public liability claims
- Property liability claims
- Cyber liabilities (for example, costs resulting from system shut down as a result of a cyberattack).

In relation to some of the above, it is important that you maintain membership of an MDO (or another provider) who has extensive expertise in the provision of medico-legal advice/services that are not covered under the scheme. The MDOs will continue to offer support to their GP members in relation to the matters listed above in the same way as they currently do for hospital doctors who are indemnified by the state (under the CNST) for the hospital work carried out under the NHS.

You may also require indemnity or insurance to cover liability for employers', public liability and property claims and liability for non-NHS and other activities not covered under the scheme.

For incidents where multiple issues may arise e.g. where there is both a claim and GMC involvement, we will work closely with your MDO. As claims tend to have a time-lag between an incident occurring and a claim being made, it is likely that in most cases, your first contact will be with your MDO/indemnity provider.

When a claim should be reported

If you receive a Letter of Notification or Letter of Claim (which are the two different pre-action documents which commence a claim) it is important that you contact NHS Resolution as early as possible as this will give us the best possible opportunity to protect your position and ensure that deadlines are met. We only have 14 days to acknowledge receipt of these documents on your behalf and so time will be of the essence. This should not stop you providing an apology, where appropriate, and an explanation and we will never turn away a claim because you have taken steps to provide an honest and transparent response – on the contrary, our research demonstrates that this is more likely to prevent than cause a claim. We would encourage you to be open and honest with patients. It is your professional duty. If you need advice on this issue, please get in touch with NHS Resolution or your MDO/indemnity provider.

Depending on the period of time to which the claim relates you must either report the claim to NHS Resolution or to your MDO/indemnity provider.

- Incidents occurring **before 1st April 2019** - report the claim to your MDO/indemnity provider
- Incidents occurring **on or after 1st April 2019** - report the claim to NHS Resolution

- Incidents occurring during both periods, or where it is unclear – report to NHS Resolution or to your MDO

You should contact NHS Resolution when you are aware of a claim relating to an incident that occurs on or after 1 April 2019. The table below sets out some guidance on this. These timescales are to give us the best possible opportunity to respond to the claim however your indemnity will not be withheld if you are unable to comply.

No.	Situation	Action Required	Timescale
1.	<p>A notifiable patient safety incident which has or may have resulted in severe harm</p> <p>Severe harm could include the following resulting from any care, diagnosis and treatment:</p> <ul style="list-style-type: none"> • the death of a patient • shortening of a patient’s life expectancy • impairment of a patient’s sensory, motor or intellectual functions which is likely to last for a continuous period • prolonged psychological injury 	<p>Report to NHS Resolution irrespective of whether or not a claim has been made or a disclosure request for patient records received</p>	<p>As soon as possible but no later than 1 month from when you become aware of the notifiable patient safety incident</p>
2.	<p>A request for disclosure of patient records which indicates a claim will be pursued</p> <p>A request for disclosure of patient records from the patient’s solicitor rather than the patient direct</p> <p>Some other indication that a claim is being considered – e.g. patient or patient’s solicitor requests an extension of the period of time in which a person must issue a claim. Please see our separate guidance document on this issue here on our website</p>	<p>Report to NHS Resolution</p>	<p>As soon as possible but no later than 1 week from receipt of the disclosure or similar request</p>

3.	Any demand for compensation including but not limited to a Letter of Notification, Letter of Claim, a request for limitation extension, a Claim Form, Particulars of Claim, Claim Notification Form, Settlement Offer, Part 36 Offer	Report to NHS Resolution	Within 24 hours of receipt with completed documentation to follow within 2 weeks
4.	Any communication received from the Parliamentary Health Service Ombudsman	Report to NHS Resolution and your MDO	Within 1 week of receipt of any communication
5.	Any complaint response which amounts to an admission of breach of duty. However, this should in no way be taken to stand in the way of the need to be completely open and transparent with the patient at the time and NHS Resolution's permission is not needed in order for errors to be acknowledged. If in doubt, please contact us for guidance.	Report to NHS Resolution	As soon as possible
6.	Any intended offer of compensation or other redress	Report to NHS Resolution	Not less than 4 weeks before the offer or similar is due to be sent to the patient
7.	Group Action – i.e. any adverse issue which has the potential to involve a number of patients	Report to NHS Resolution irrespective of whether or not claim(s) have been notified	As soon as possible but no later than 2 weeks from when you become aware of the matter

If a GP Practice receives notification of a claim relating to a retired GP or other healthcare professional who was involved in any of the above reportable incidents but who is no longer working in general practice, the GP practice should contact the individual concerned and encourage them to contact NHS Resolution as soon as possible so that we can assist them with any potential claim.

Reporting the above to NHS Resolution will allow early involvement, which can often potentially avoid a claim or allow for early investigations which limit unnecessary delay and legal costs.

How to contact us

If you have any concerns regarding whether a claim falls within CNSGP or whether a matter should be reported please contact NHS Resolution by:

1. **Email** - cnsgpnotification@resolution.nhs.uk - setting out the basis of your enquiry and we will either respond by email or telephone to discuss the issue further. **Do not send any documents via email as they may contain patient sensitive data. Do not include any patient sensitive data in your email.**
2. **Telephone** - call our [Claims Helpline 0800 030 6798](tel:08000306798) at any time; 24 hours a day, 365 day a year to speak to a legal advisor about any clinical negligence claims covered by CNSGP and not medico-legal matters that will be handled by your MDO (or any other provider).

Reporting a claim to NHS Resolution and what we need from you

It is essential when reporting a claim to NHS Resolution and providing documents that you do so securely to ensure that personal data (including but not restricted to that of a patient) is protected.

When reporting a claim to NHS Resolution, complete the Claim Notification Form and, where available, send us the following documents:

1. The section of the patient's GP records which relates to the period of treatment which is the subject of the claim.
2. Letter of Notification or Letter of Claim or some other request for compensation from the patient or their solicitors;
3. Claim Form, Particulars of Claim – court documents commencing a clinical negligence claim;
4. All correspondence with the patient or their solicitors;
5. All correspondence relating to any complaint that may have been made by the patient;
6. Written comments, witness statements and reports you may have previously prepared, for example in preparation for a complaint response, inquest or regulatory hearing that relates to the relevant incident that is, or may be, the subject of a claim;
7. Any independent expert evidence that may have previously been obtained, for example in preparation for an inquest or regulatory hearing (if provided to you by your MDO);
8. Notes or associated documents from any inquest, including the details of the Coroner's conclusion (if provided to you by your MDO); and

9. Any Serious Incident Investigation Report or any other report into a patient safety incident.

The documents listed 2 – 9 above should not be included in a patient's GP notes and should be kept separately. Where material, such as expert reports or witness statements, has been prepared in order to assist your personal defence in respect of another legal or regulatory process then you should discuss with your MDO or legal team before disclosing it to us.

What will happen after a claim has been reported

Once a claim is reported to NHS Resolution, it will need to be verified that it falls within the scope of CNSGP. NHS Resolution will contact you by email or telephone within 72 hours to confirm the position.

Once it is confirmed that a claim falls within the scope of CNSGP (i.e. it relates to NHS contracted care after 1 April 2019) you will be allocated a dedicated GP Indemnity Claims Manager who will contact you at a time convenient to you to set the investigation in motion. We may decide at the outset to instruct external solicitors to help with any claim and if so, we will provide you with their details and you will be able to speak to a named solicitor directly.

If court proceedings are served then you may become the named defendant in the action, however, we will try to avoid formal court proceedings wherever possible. Your timely input to the investigation and resolution of the claim is critical. We may ask you to consider the option of mediation with the patient which can be a way of resolving matters informally in a neutral space.

Once an outcome in relation to a claim has been reached, we will use any learning from the incident and others like it for the purposes of safety improvement in general practice. The protection of patient and clinician identities in sharing learning is very important to us and we will ensure that data protection requirements are strictly observed at all times. CNSGP is the first occasion on which claims arising in general practice have been brought under one roof and NHS Resolution will work with the general practice community and others to ensure that this is put to good use for the benefit of all patients and those who care for them.

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