

COVID-19

Guidance for trusts

This guidance has been prepared to support our members and beneficiaries of our schemes during the Coronavirus pandemic.

We are acutely conscious of the pressures the NHS will be under now and in the coming few weeks and our aim is to ensure frontline staff are able to focus on essential and critical patient care.

We are also conscious that the situation is rapidly changing and these FAQs will be revisited regularly. If you have a specific query please contact your CNST team leader or email ClaimsEnquiries@resolution.nhs.uk.

How should we manage requests for disclosure of medical records?

The rules in relation to disclosure of records remain the same and requests continue to be made. We do however acknowledge the service pressures. The Information Commissioner's Office (ICO) have issued some helpful guidance which can be found [here on the ICO website](#). Specifically in relation to responding to information rights requests (as at 31 March 2020) the ICO advise:

"We understand that resources, whether they are finances or people, might be diverted away from usual compliance or information governance work. We won't penalise organisations that we know need to prioritise other areas or adapt their usual approach during this extraordinary period.

We can't extend statutory timescales, but we will tell people through our own communications channels that they may experience understandable delays when making information rights requests during the pandemic."

Will claims processes be paused?

Not as a general rule. We will continue to manage claims in the usual way as far as we are able including continued management of litigation and settlement of cases. We accept however that much of what we do relies on clinical input. Where cases cannot be progressed without this input we will work with representatives for all parties to agree sensible timescales.

Will clinicians need to attend trial / inquests or other case related meetings?

As you will appreciate, attendance at hearings is governed by court ordered processes. In order to try to facilitate greater flexibility and cooperation across the market, we have engaged with HM Court and Tribunal Service to raise the issue of frontline healthcare staff not being able to assist in claims management, including

attendance at hearings. We are exploring potential solutions. We will keep you informed of developments if and when they occur.

Our panel lawyers are making applications, often by consent of all of the parties, to avoid the need for clinical staff to attend hearings.

Wherever possible, other case related meetings such as conferences, settlement meetings and mediations will be converted into virtual meetings and / or rescheduled as appropriate.

Will clinicians have to review legal documents and provide comments?

We fully appreciate and support the position that all clinical staff will be focussed on frontline healthcare services. We understand that sometimes this means that we may not be able to obtain your / your teams' input on claims and as a result deadlines will not be met. We have instructed our staff and panel lawyers to be as flexible as possible in the circumstances.

We are also working with many of the leading claimant law firms to agree that flexibility in deadlines will be required to alleviate the need to engage frontline healthcare staff.

As you will appreciate, we are bound by some deadlines, (such as those set by the courts). Whilst we, and our panel, will endeavour to facilitate extensions or stays in proceedings, some deadlines will remain immovable and we shall have to comply or run the risk of adverse consequences being ordered against you.

To confirm, we have instructed our staff not to approach clinicians directly. If input is needed this will be sought via the legal services teams.

How should we respond to requests to extend limitation?

Please see our [general guidance on limitation](#).

We are not able to respond to these requests on behalf of our members unless the case is one which has been reported to us.

In general, in light of current events we recommend taking a pragmatic and sympathetic approach to any requests for extensions of time generally. This will include requests to extend limitation.

How should we correspond with NHS Resolution?

Our claims teams are working remotely. Please send all correspondence to us by electronic means, preferably via our document transfer system (DTS), including medical records and other documents relevant to claims. New claims should be reported to us in the usual way.

Will I be able to speak to someone at NHS Resolution about a claim?

We are not an organisation providing frontline healthcare and all our staff are now working from home. Our telephone numbers have been diverted and so you should be able to contact us using the usual contact details.

What happens if proceedings are served?

In line with court rules, proceedings must be served on the named defendant or a nominated solicitor.

Wherever possible, we encourage you to accept service of proceedings by electronic means or nominate solicitors to accept service of proceedings. On cases that have been reported to us, we are asking claimant solicitors to send us, or our nominated panel lawyer, a copy of any proceedings served.

How can we sign documents?

We anticipate that where possible your legal teams will be operating remotely. We would suggest if possible you ensure they can sign forms electronically.

We also suggest you provide permission for your legal panel representatives to sign documents on your behalf. If you encounter any difficulties with this, please contact your CNST team leader or email ClaimsEnquiries@resolution.nhs.uk.

Will you still need our input on cases?

In some instances, yes. We will need your agreement to make admissions of breach of duty. We suggest that you review your internal reporting and governance structures in relation to such approvals so they are as streamlined as possible.

Where clinician input is required, we accept that we may not be able to obtain this and as a result deadlines may be missed. We have instructed our staff and panel lawyers to be as flexible as possible in these circumstances. We have also instructed them not to approach your clinicians directly. Any input will be sought via the legal services teams.

As above some deadlines will remain immovable and we shall have to comply or run the risk of adverse consequences being ordered against you.

We have instructed our staff not to approach clinicians directly. If input is needed this will be sought via the legal services teams.

Other decisions lie within our remit such as agreeing compensation in cases where liability has been admitted. In order to make best use of our respective resources and skills we encourage you to not to become unnecessarily involved in these decisions – follow [the member charter](#). If you have any queries please speak to your usual NHS Resolution contact.

Do we still have to meet the requirements of the Maternity Incentive Scheme?

In recognition of the current pressure on the NHS and maternity services in response to COVID-19, we will be pausing the majority of reporting requirements relating to the maternity incentive scheme 10 safety actions until Monday 31 August 2020. This will be kept under review. Trusts are asked to continue to apply the principles of the 10 safety actions, given that the aim of the maternity incentive scheme is to support the delivery of safer maternity care.

Please review [our guidance on the current status of the Maternity Incentive Scheme on our website](#).

If you have any questions about the Maternity Incentive Scheme please contact mis@resolution.nhs.uk

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