

When and how to report a claim

Clinical Negligence Scheme for Coronavirus (CNSC) reporting guidelines

A new indemnity scheme, the Clinical Negligence Scheme for Coronavirus (CNSC), has been launched by NHS Resolution to meet liabilities arising from the special healthcare arrangements being put in place in response to the coronavirus outbreak.

The scheme will respond to new and alternative ways of working, including new contracts being put in place for the NHS to respond to coronavirus, such as those with the independent sector and organisations supporting testing arrangements.

Membership of this new indemnity scheme is not required and cover will be provided automatically under the relevant contracts or arrangements otherwise approved by the Department of Health and Social Care, NHS England and NHS Improvement.

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 as part of the coronavirus response 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 scheme has been established in accordance with new powers governed by the Coronavirus Act 2020. It will provide additional indemnity coverage for clinical negligence liabilities that may arise when healthcare workers and others are working as part of the coronavirus response, or undertaking NHS work to backfill others, in the event that existing arrangements under our other clinical negligence indemnity schemes – [the Clinical Negligence Scheme for Trusts \(CNST\)](#) and [the Clinical Negligence Scheme for General Practice \(CNSGP\)](#) - do not cover a particular activity.

The new scheme complements the existing indemnity schemes operated by NHS Resolution on behalf of the Secretary of State for Health and Social Care. During the coronavirus outbreak, existing indemnity arrangements will continue and the intention is that this additional indemnity cover will provide a safeguard, but not duplicate existing provision.

An outline of the indemnity arrangements that apply during the coronavirus pandemic is available in our series of [frequently asked questions](#) available on our website – you may also refer to our more general documents: [COVID-19 Guidance for general practice](#) and [COVID-19 Guidance for trusts](#).

When a claim should be reported

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 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.

The table of reportable matters below sets out the triggers for when a claim should be reported to NHS Resolution and the applicable timescales. 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. NHS Resolution may also, at its discretion, accept cases falling outside the reporting criteria.

Table of reportable matters

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. 	Report to NHS Resolution irrespective of whether a claim has been notified or a disclosure request received.	As soon as possible but no later than one month (or under the period as defined under the terms of your contract) from when you become aware of the notifiable patient safety incident.
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 week from receipt of the disclosure or similar request.
3.	<p>Any demand for compensation including but not limited to:</p> <ul style="list-style-type: none"> • Letter of Notification • Letter of Claim • Request for limitation extension • Claim Form 	Report to NHS Resolution	Within 24 hours of receipt with completed documentation to follow within 2 weeks.

	<ul style="list-style-type: none"> • Particulars of Claim • Claim Notification Form • Settlement Offer • Part 36 Offer 		
4.	Notification of inquest received. And Civil claim is likely to be pursued based on the subject matter of the inquest.	Report to NHS Resolution	No less than 1 month from the inquest hearing date
5.	Intended offer of compensation or redress.	Report to NHS Resolution	Not less than 4 weeks before the offer or similar is due to be sent to the patient.
6.	Group action i.e. any adverse issue (including serious professional misconduct of a staff member) 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.

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 CNSC or whether a matter should be reported, please contact NHS Resolution by:

Email - cnsnotification@resolution.nhs.uk - setting out the basis of your enquiry and we will either respond by email or telephone to discuss the issue further.

Please do not send any documents via unencrypted email as they may contain patient sensitive data. Please do not include any patient sensitive data in your email.

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 (which we will provide to you once you have made initial contact with us) and send us the following documents (where available):

1	Letter of Notification or Letter of Claim or some other request for compensation from the patient or their solicitors;
2	Claim Form, Particulars of Claim – court documents commencing a clinical negligence claim;
3	All correspondence with the patient or their solicitors;
4	All correspondence relating to any complaint that may have been made by the patient;
5	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;
6	Any independent expert evidence that may have previously been obtained, for example in preparation for an inquest or regulatory hearing ;
7	Notes or associated documents from any inquest, including the details of the Coroner's conclusion; and
8	Any Serious Incident Investigation Report or any other report into a patient safety incident.
9	Copy of Contract
10	Copy of medical records
11	Copy of any Protocols relevant to the claim

The documents listed 1 – 9 above should not be included in a patient's notes and should be kept separately.

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 CNSC. NHS Resolution will attempt to contact you as soon as possible to confirm this position.

Once we are able to confirm scope of a potential CNSC claim, a Claims Handler will acknowledge receipt of the claim correspondence and liaise with the Patient or the Patient'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

If court proceedings are served then your organisation 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. NHS Resolution will work with 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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