

# Reporting Guidelines

## - General Practice Indemnity

When and how to report a claim under the Clinical Negligence Scheme for General Practice and the Existing Liabilities Scheme for General Practice

## 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, where appropriate 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 do the state schemes for general practice cover?

The state schemes for general practice are:

1. The Clinical Negligence Scheme for General Practice (CNSGP); and
2. The Existing Liabilities Scheme for General Practice (ELSGP).

The CNSGP 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**.

The ELSGP covers **claims for compensation arising from the care, diagnosis and treatment of a patient** as part of the NHS in England following incidents which occurred **before 1 April 2019** during, or as a result of, care provided by a member of the Medical and Dental Defence Union of Scotland (MDDUS) or a member of the Medical Protection Society (MPS).

This means that if you were an MDDUS or MPS member prior to 1 April 2019 then the ELSGP will cover you for claims relating to any incidents that occurred during your period of membership of the MDDUS or the MPS.

If a claim is brought against you which relates to an incident which happened before 1 April 2019 and:

1. you were not an MDDUS or MPS member prior to 1 April 2019; or
2. you were a member of the MDDUS or the MPS prior to 1 April 2019 but the claim relates to an incident that did not occur during that period of membership of MDDUS or MPS,

then, you should go to the medical defence organization (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:

1. if you are or were an MDDUS or MPS member at the relevant times, both CNSGP and ELSGP will be relevant to you;
2. if you are not or were not an MDDUS or MPS member at the relevant times, only CNSGP will be relevant to you, and it will be relevant only to the element which relates to the 'post' 1 April 2019 period.

We will work closely with the MDO or indemnity provider providing indemnity for the 'pre' period to resolve the matter.

Both state schemes provide unlimited and comprehensive clinical negligence cover for the care, diagnosis and treatment of NHS patients. 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 schemes where a clinical negligence liability arises from the care, diagnosis and treatment of a patient under the NHS.

Neither state scheme covers the activities listed below. This list is not exhaustive 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 indemnity provider) who has extensive expertise in the provision of

medico-legal advice/services that are not covered under the schemes. 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' liability, public liability and property claims and liability for non-NHS and other activities not covered under the schemes.

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) in relation to incidents covered by the schemes 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, rather 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. Please also see our guidance on [Saying Sorry](#) for further details.

Depending on the period of time to which the claim relates, and whether you were a member of the MDDUS or the MPS at the time of the incident, you must either report the claim to NHS Resolution or to your MDO/indemnity provider.

If you are or were at the time of the incident an MDDUS or MPS member – report the claim to NHS Resolution (regardless of when the incident occurred).

For non-MDDUS or MPS members, or MDDUS or MPS members who were not MDDUS or MPS members at the time of the relevant incident:

- Incidents occurring **before 1 April 2019** - report the claim to your MDO/indemnity provider
- Incidents occurring **on or after 1 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.
- You are aware of a claim relating to an incident that occurs before 1 April 2019; and you were a member of the MDDUS or the MPS at the time of the incident

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.** This table does not deal with any claims which relate to incidents occurring before 1 April 2019 other than where you were a member of the MDDUS or the MPS at the time of the incident.

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"> <li>• the death of a patient</li> <li>• shortening of a patient's life expectancy</li> <li>• impairment of a patient's sensory, motor or intellectual functions which is likely to last for a continuous period; or</li> <li>• prolonged psychological injury</li> </ul>	<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 himself/herself</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 <a href="#">Disclosing Records guidance</a> on our website.</p>	Report to NHS Resolution	As soon as possible but no later than 1 week from receipt of the disclosure or similar request
3.	Any demand for compensation including but not limited to a Letter of Notification, a Letter of Claim, a request for limitation extension, a Claim Form, Particulars of Claim, a Claim Notification Form, Settlement Offer, or a 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 redress 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
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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 may 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 one of the two general practice state indemnity schemes or whether a matter should be reported, please contact NHS Resolution by:

1. **Email** - [cnsgpnotification@resolution.nhs.uk](mailto:cnsgpnotification@resolution.nhs.uk) if your enquiry relates to a claim after 1 April 2019

**Email** – [ELSGPnotifications@resolution.nhs.uk](mailto:ELSGPnotifications@resolution.nhs.uk) if your enquiry relates to a claim before 1 April 2019 and you were an MDDUS or MPS member at the time of the incident - 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** at any time; 24 hours a day, 365 day a year to speak to a legal advisor about any clinical negligence claims covered by the state schemes, but not medico-legal matters, which 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.

MDDUS or MPS members reporting claims relating to incidents that occurred before 1 April 2019 and during their membership of the MDDUS or the MPS are required to provide information about the incident and some membership details such as the membership number and period of cover, by completing the Notification Form.

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 or ELSGP. 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 one of the two state schemes (i.e. it relates to NHS contracted care either (i) on or after 1 April 2019; or (ii) before 1 April 2019 and you were a member of the MDDUS or the MPS at the time of the incident) 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.

(Published April 2021)