# NHS Resolution – Board meeting (Part 1)

Wednesday 18th January 2023
10:00 – 15:00
Hybrid Meeting: Room 8.05/MS Teams

## Agenda

| Item | Time | Description | Note Review Approval | Presenter | Page No. on Diligent |
|---|---|---|---|---|---|
| **1** | **10:00** | **Administrative Matters** | | | |
| 1.1 | | Chair's opening remarks and apologies | Note | Chair | |
| 1.2 | | Declaration of conflicts of interest of members | Note | Chair | |
| 1.3 | | Minutes of Board Meeting held on 15th November 2022 | Approval | Chair | |
| 1.4 | | Review of actions from Board meetings | Note | Chair | |
| **2** | | **Operational Items** | | | |
| 2.1 | 10:10 | Chief Executive's report | Note | CEO | |
| 2.2 | 10:20 | Performance review | Discuss | SMT Leads | |
| 2.3 | 10.30 | Complaints report | Note | DDoC&IG | |
| **3** | | **Management proposals requiring Board input or approval** | | | |
| | | No items to consider | | | |
| **4** | | **Liaison with key stakeholders** | | | |
| 4.1 | 10.40 | Liaison with key stakeholders | Note | DoMSE | |
| **5** | | **Key Developments** | | | |
| 5.1 | 10.50 | Case of note | Note | TCD | |
| **6** | | **Oversight of key projects** | | | |
| 6.1 | 11.00 | Strategic activity update | Note | DDoPST | |
| **7** | | **Board Committee Reports and Minutes** | | | |
| 7.1 | 11.10 | RemCo Annual Report & Terms of Reference | Note | Chair | |
| **8** | | **Other matters requiring Board approval** | | | |
| | | No items to consider | | | |

| | | | | | |
|---|---|---|---|---|---|
| **9** | 11.15 | **Any Other Business** | | | |

Key

| | |
|---|---|
| | Note for information |
| | Presented to the Board for review, comment and agreement |
| | Presented to the Board for a decision where this is reserved to the Board or to provide approval |

NHS Resolution

# Board meeting minutes (Part 1)

Tuesday 15th November 2022
10:00 – 15:00
Hybrid Meeting: MS Teams / Room 8.05

| Present | |
|---|---|
| Sally Cheshire | Chair |
| Mike Pinkerton | Non-Executive Director |
| Charlotte Moar | Non-Executive Director |
| Nigel Trout | Non-Executive Director |
| Janice Barber | Non-Executive Director |
| Lesley Regan | Non-Executive Director |
| Sam Everington | Non-Executive Director (Associate Board Member) |
| Mike Durkin | Non-Executive Director (Associate Board Member) |
| Helen Vernon | Chief Executive |
| Vicky Voller | Director of Advice and Appeals |
| Joanne Evans | Director of Finance & Corporate Planning |
| Denise Chaffer | Director of Safety & Learning |
| John Mead | Technical Claims Director (Associate Board Member) |
| **In attendance** | |
| Ian Adams | Director of Membership and Stakeholder Engagement |
| Simon Hammond | Director of Claims Management |
| Niamh McKenna | Chief Information Officer |
| David Gurusinghe | Deputy Director, Policy, Strategy and Transformation |
| Tinku Mitra | Deputy Director of Corporate & Information Governance |
| Cheryl Lynch | DHSC Sponsor Team representative |
| Julia Wellard | Executive Personal Assistant (Minutes) |

## 1 Administrative matters

### 1.1 Chair's opening remarks and apologies

The Chair welcomed everyone to the meeting, in particular Zoe Moulton who joined the meeting as an observer as part of shadowing the Chief Executive. It was noted that this was Mike Pinkerton's last Board meeting as his term as a NED ends on the 16th January 2023.

The Chair commented that she has been in post for eight weeks and has met with all NEDs and Directors and has attended a number of staff network meetings. The Chair has also started a programme of meeting with external stakeholders.

The Chair and Chief Executive attended a meeting of all Arm's Length Body (ALB) Chairs and Chief Executives on the 11 November 2022.

The Chair thanked everyone for making her feel welcome over the past eight weeks and looks forward to working with everyone going forward.

### 1.2 Declaration of conflicts of interest of members

There were no conflicts of interest not previously noted.

### 1.3 Minutes of Board Meeting held on 13th September 2022

The minutes of the Board meeting held on Tuesday 13th September 2022 were approved for signature by the outgoing Interim Chair.

### 1.4 Review of actions from Board meetings

Action 22.05 was closed at the meeting. Action 22.10 is carried forward.

## 2 Operational items

### 2.1 Chief Executive's Report

*DHSC Ministers*
The Rt Hon Maria Caulfield MP has been appointed as the Minister responsible for NHS Resolution, as part of her portfolio. This provides continuity and the Minister is already well briefed on all matters relating to NHS Resolution. The Rt Hon Steven Barclay MP has been appointed Secretary of State for Health and Social Care.

*Early Notification Scheme (ENS), publication of second report*
The second ENS report, which provides an overview of progress made since the report of the first year of the scheme, was published on 29th September 2022 and has landed well. Our National Maternity conference is planned for the 28th November 2022 followed by an international indemnifiers meeting in the evening after the conference. We have good contacts with international organisations and meet with them on a bilateral basis. Regular meetings are also held with our UK and Ireland equivalents.

The Board noted the Chief Executive's Report.

### 2.2 Performance Review

The performance review detailing financial performance and key performance indicators for the period under review was presented. The data which support the measurement of our performance in relation to claims management are commercially sensitive and disclosure could adversely impact our ability to manage claims effectively. Consequently, whilst claims activity is reported in Part 1, claims KPIs are reported and monitored in the Part 2 private Board session.

The performance reports are now aligned with the strategic aims within our new strategy. Feedback on the reports should be passed to the Deputy Director of Policy, Strategy and Transformation.

*Finance*
It was noted that discussions are taking place with DHSC on budgets for the GP and Covid schemes in the context of the parliamentary spring supply process.

In terms of the AME timetable, we are working on final sign off for the 16th or 19th December before the forecast is submitted to DHSC.

The prompt payment policy KPI continues to be below target (95%) at 86% for the year to September. Analysis has been undertaken to identify where the issues occur which relate to purchase orders not being set up at the outset and not receipted. A new finance system was implemented in December 2019 and the organisation has gone through a lot of change over that period in terms of how we operate, including the need to set up new joiners and leavers on the system. We are working with colleagues in a collaborative way to improve the position. An improvement on the KPI was requested for the next Board meeting.

**Action: DoF**

*Claims*
There has been a slight increase in the number of claims reported versus last year. indicating we are returning to a more normal reporting pattern, post-pandemic.

In terms of time to resolution, it was noted that the number of open cases is high and the time to resolve cases longer. When viewed alongside the headcount, which is below the budgeted establishment, it was queried whether this will drive an increasing number of open claims. It was noted that there is work ongoing to review the position, however budgeted numbers for staffing should be viewed in the context of the CEP transformation programme and the transition to increased insourcing. It was suggested that it would be useful to illustrate the tipping point between the various stages of recruitment in the CEP programme to show the milestones and equivalent establishment for the relevant stages i.e. scaling up for GPI, regionalisation and the phasing of insourcing. It is not anticipated that we will see an increase in the open book because we will be appropriately resourced for the volume of claims that we have. An update will be included in the next performance report.

**Action: DoCM**

Potential claims risks were discussed. It was commented that patients will soon be able to access their own GP notes and this could lead to inadvertent access to other patients' notes as well as issues around safeguarding.

In connection with the non-clinical schemes and NHS staff risks, it was noted that through our employers' liability claims, we have seen an increasing number of staff with long term illnesses and stress of work cases although this has been factored into our modelling. It is possible that we will get early indicators of potential employee claims trends through the experience of the Advice service and this will be monitored.

We are beginning to see long Covid claims and the claims function is considering how to respond to these claims.

*Practitioner Performance Advice*
Advice published a new Insights paper on behavioural assessments, which received a high rate of views and has been well received.

*Primary Care Appeals*
Primary Care Appeals undertook their first education awareness raising session in ICBs, which was well received. There is good engagement from ICBs and there are three ICBs which are involved in the pilot work on Appeals.

The Board noted the performance reports for the Finance, Claims, Practitioner Performance Advice, Safety and Learning, Early Notification and Primary Care Appeals functions.

## 3 Management proposals requiring Board input or approval

3.1 There were no items to consider.

## 4 Liaison with Key Stakeholders

### 4.1 Liaison with key stakeholders

The non-KPI related information on strategic stakeholder engagement activity co-ordinated by the Membership and Stakeholder Engagement (MSE) and Safety and Learning teams for the current reporting period was presented.

*Safety and Learning*
There has been a huge amount of activity by the team. There is now a lot more appetite for one hour webinars but there are still requests for face to face work. A number of reports have also been published.

The team have been unable to appoint to the MIS research fellow and other options are being considered. Current pressures within NHS organisations mean that they are unable to release staff.

The academic partners had three key workstreams of which one was the maternity module in response to the HEE platform. They have also supported work on GP claims and a taxonomy and have provided an options appraisal approach for the EN evaluation. We have been provided with helpful oversight of our clinical fellows and imrpoved research governance around our reports. The next phase of work will be on tracking recommendations through to implementation which will be followed by looking at evaluation.

It was suggested that we could approach each of the post-graduate Deans who are active in training. There are also three Patient Safety Centres in London, Bradford and Manchester which are partnerships between universities and NHS trusts that support patient safety research. It was also suggested whether we could develop a long term partnership with a specific university to focus on the area of maternity and it was suggested that Mike Durkin, Lesley Regan and Sam Everington could think about

which universities could be approached. The RCOG Tommy's National Centre for Maternity Improvement has four universities which we could approach.

There is great interest when talking to organisations about their scorecards and an appetite to do more on this. ICBs have access to the litigation packs that we co-produced with GIRFT. There was discussion of the engagement strategy for ICBs. We will be exploring developing an ICB scorecard and possibly piloting it with a number of ICBs to see whether it is useful to them. It is anticipated that ICBs will also be interested in the collect for their area as well as the breakdown of the trusts within their area and the connection with safety. ICBs have access to and are interested in 'Factsheet five' which includes data on all the trusts and we could explore looking at this through ICB groupings. There are options for group meetings of, for example, Chief Nursing Officers or Finance Directors etc. and potential to work with other ALBs to develop a programme of learning for them which has all the different elements. NHSE&I have a programme with the chief nurses of ICBs but it is uncertain how widely that programme is extended to other individuals. It was agreed that we should find out who the programme is aimed at so that we can plan our own engagement.

**Action: DoMSE**

It was noted that the Membership and Stakeholder Engagement (MSE) team have a task and finish group which will be looking into finding out what ICBs need from NHS Resolution. The Director and Deputy Director of MSE have had meetings with the NEDs to identify who they could speak to in their areas. Board will be kept updated on the strategy.

*Membership and Stakeholder Engagement (MSE)*
The MSE team have been working closely with the Director of Finance and her team on the production of contribution notices including the approach to engaging ICBs on the finance side.

The team are continuing to provide a more targeted approach which is evident from the information provided, in particular the high level of engagement we have had through the promotion of the insights work as well as the work with the Safety and Learning team e.g. 31,000 people have viewed the duty of candour animation, 32,500 people have looked at the various EN report materials.

Users are being given more control over the type of information they wish to receive from us and we are introducing further improvements to the website which will enable people to continue to receive generic materials e.g. through the Resolution Matters newsletter.

In terms of direct connection with clinicians, we are using partner channels in order to disseminate information to front line services. We have an open invitation with the GMC to use their channels and we have also used the NHSE leaders network.

The Board noted the report on liaison with key stakeholders.

## 5 Key Developments

5.1 There were no items to consider.

## 6 Oversight of Key Projects

### 6.1 Strategic activity update

An update was provided on NHS Resolution's main strategic change programmes.

The transformation programmes are complex and rated as Amber which is not unusual to see and is reflective of progress to date. The two main programmes are currently interconnected and dependent upon each other to reach planned milestones.

The Board noted the strategic activity update.

## 7 Board Committee Reports and Minutes

### 7.1 People Committee minutes held on 20th September 2022

The Board noted the draft minutes from the People Committee held on the 20th September and a summary report of the main discussions held.

The minutes show that the meeting discussed our strategy, policy and performance and as the committee matures the meetings are starting to move into understanding the reporting structures as well as governance issues and risk registers related to our people.

### 7.2 Audit and Risk Committee (ARC) minutes of June and July 2022

The minutes of the Audit and Risk Committee (ARC) meetings held in June and July 2022 were noted by the Board.

## 8 Other matters requiring Board attention

### 8.1 Schedule for Board and the Board sub-committees

The schedule for the Board and Board sub-committees was presented. It was pointed out that most of the reports are for noting and some of the reports should provide some assurance to Board rather than be simply for noting. The Deputy Director of Corporate and Information Governance will review the schedule for those items where Board takes assurance.

The Board noted the schedule.

## 9 Any Other Business

### 9.1 Mike Pinkerton

It was noted that this was Mike Pinkerton's last formal Board meeting. The Chair thanked Mike for everything he has done for the organisation and for the excellent

handover provided in her first few weeks as Chair. Mike has served six years on the NHS Resolution Board and, most recently, reached his 40 year anniversary working in the NHS. The Board wished Mike all the best for the future.

The Chief Executive thanked Mike, in particular for his help over the last year when he took up the post as interim Chair. NHSR staff have also appreciated the support and visibility Mike provided to them.

Mike thanked the Board for their support and professionalism and commented he had great confidence in the future of the organisation. Mike also thanked all staff members of the organisation.

## 10 Date and Venue for next meeting

10.1 The next Board meeting is scheduled for Wednesday 18th January 2023 at 10.00am – details TBC

Signed ……..……

Date ……..

## Board Actions – November 2022

**Part 1**

| Action Ref No. | Date of Board Meeting | Reference | Action | Date action due | Officer responsible | RAG rating | Status of action |
|---|---|---|---|---|---|---|---|
| 22.05 | 24.6.22 | Targeted, personalised communications | Report on methods of personalising communications and feasibility within current resources | November Board | Director of MSE | **CLOSED** | An update is provided in November's MSE report. |
| 22.10 | 13.9.22 | PSIRF | Reference to NHSR's role in the framework may be taken out of context. Consider routes to explain clearly what our role is and is not in relation to the framework. | ASAP | DoMSE/ DoS&L | | We continue to work with NHSE and will feedback the views from the board. |
| 22.11 | 15.11.22 | Prompt payment of invoices | An improvement on the KPI was requested for the January Board meeting. | January Board | DoF | | |
| 22.12 | 15.11.22 | Claims Performance | To demonstrate the tipping point between the various stages of recruitment in the CEP programme where we are scaling up on GPI and regionalisation but also the point of where we are scaled up to insource. | January Board | DoCM | | |
| 22.13 | 15.11.22 | NHSE&I learning programme | To find out who the NHSE&I learning programme is aimed at within ICBs. | ASAP | DoMSE | | |

# Chief Executive's Report

## Board meeting (Part 1)

18th January 2023

**Personal Injury Discount Rate**

The Ministry of Justice (MoJ) held a series of stakeholder engagement events throughout November in anticipation of a review of the Personal Injury Discount Rate (PIDR). Changes to the PIDR have a substantial impact on NHS Resolution's expenditure and liabilities and we have provided significant input to the processes and evidence which supported previous reviews.

The Chief Executive and the Director of Claims Management both attended stakeholder events in November on separate dates and with differently constituted groups.

A Statement of Reasons was published alongside the Lord Chancellor's decision on the last rate in 2019. This document confirms the Government's interest in the concept of a dual rate and a commitment to gather additional evidence in this area.

Across the two meetings, NHSR contributed on issues of complexity, the merits of dual rates, the evidence which we and others could contribute and PPOs. We expect consultation early on in the year and are considering the resource and data requirements to respond in order to fully inform the review.

**Primary Care Appeals - Panel Members**

Appeals Panel Members are paid in line with the Ministry of Justice's (MoJ) salary/fees schedule.

On 7 November 2022, the MoJ issued notice of an increase to fees.

For tribunals that are of a similar standing to the work of our Appeals Panel Members, chair fees have increased from £521.80 to £537.46 and other panel member fees have increased from £296.62 to £305.52. This increase is backdated to 1 April 2022.

I have agreed the increase and back payment. These changes do not have any implications for resourcing.

The Board is asked to **note** the Chief Executive's report.

# Board meeting – Part 1

Wednesday 18 January 2023

| | |
|---|---|
| Agenda item: | Item 2.2 |
| Title of paper: | Performance Report |
| Responsible Director/Lead: | Chief Executive and SMT leads |

## Summary of paper:

The performance reports provide an overview on financial performance and key performance indicators for the period under review. Where performance is below target an explanation is given together with details of plans to bring performance back in line.

Part 1 reports have been split into the following sections for ease of navigation:

1. Executive summary;
2. Financial performance; and
3. Operational performance.

Please note the following updates appear elsewhere in the Part 1 agenda:

1. Liaison with key stakeholders (at item 4); and
2. Strategic activity overview (at item 6).

## Board action requested:

The Board is asked to **note** the report.

## Potential risks:

Our performance is detailed in public documents such as the Business Plan and our Annual Report and Accounts as well as reported on a regular basis to the Department of Health. Any failure to perform against agreed targets or to have plans in place to remedy under performance would bring into question our effectiveness in delivering the aims of our Business Plan.

## Equality, diversity & inclusion:

We review all the proposed measures of performance against our standards in this area when agreeing definition of thresholds with the Department of Health and Social Care at the outset of the financial year.

## Has the patient and public interest been taken into account?

All performance measures are focused ultimately on the interests of patients and the public be that in relation to patient safety or preserving resources for NHS care.

# Part 1 performance report – executive summary

Wednesday 18 January 2023

Key points to note from this reporting period are as follows:

Finance (to end November)

- The year to date financial position on DEL net expenditure where budgets have been agreed, is an overspend of £574k (0.2%) with a further £62.8m of expenditure on GPI and Covid schemes where budgets have yet to be confirmed. The net position is consequently an overspend of £63.4m (27.2%) YTD.

Operations (to end November)

- In the CNST portfolio, the highest volume specialties are Orthopaedic surgery (617 claims), followed closely by Emergency Medicine (612 claims) and Obstetrics (569 claims). And in LTPS, Orthopaedic injuries remain the largest injury type (1205 claims), followed by psychiatric damage (365 claims).
- Performance Practitioner Advice (Advice) are currently piloting the inclusion of 'Professional Dilemmas' to assess practitioner's judgement in situations encountered in the workplace.
- Twenty education events have been delivered, with 294 participants trained and 89% of participants rated our programmes at least 4 out of 5 for quality and 98% reporting they would be happy to recommend our training to others.

Strategic activity (as of 15 December)

- The overall programme status for the Core Systems Programme is amber. Significant progress has been made in terms of readiness for the Advice service go-live in 2023. Financials are in place to support all team members through to close of FY 2023 to enable delivery of all Claims functionality during the next financial year.
- The overall programme status for Claims Evolution Programme is green. CEP plan to be aligned to Core Systems Programme (CSP) release schedule and baselined to allow alignment of delivery windows so impacted teams are not overloaded. Claims Support Service (CSS) to launch in January 2023 with defined task shifting of two scoped tasks, with further tasks to be scoped.

**The Board is asked to note the Part 1 performance reports.**

# Part 1 performance report – financial

Wednesday 18 January 2023

## Summary financial position at November 2022:

**Executive summary**

**Summary Financial Position at November 2022**

The year to date financial position on DEL net expenditure where budgets have been agreed, is an overspend of £574k (0.2%) with a further £62.8m of expenditure on GPI and Covid schemes where budgets have yet to be confirmed. The net position is consequently an overspend of £63.4m (27.2%) YTD.

Key drivers for the budget year to date variance are within the scheme expenditure:

- **Member Funded Schemes** are underspent by £218k (0%), which has moved from an overspend as at September of £6.3m (1%) when last reported to Board. CNST is overspent by £8.1m, which is largely offset by underspends in LTPS (£7.7m) and PES (£0.6m). Total expenditure is £1,338.2m which is an increase of £79.5m (6%) compared with last year.

- **DHSC Funded Schemes** are overspent by £8.0m (16%) against the year to date budget (September was underspent by £5.9k). Although the annual budget is currently £121m, when setting budgets for 2022/23 it was anticipated that spend could be in excess of this due to a number of high value claims being due for settlement. The latest estimate suggests the full year position may be between £135m and £140m. This has been communicated to DHSC who have committed to funding pressures if they materialize.

- **GPI schemes** spend is £62.7m, an increase of £17.7m from September. Of the total spend to date £5.8m relates to CNSGP and £57.0m relates to ELSGP. GPI scheme expenditure reflects an increase of £14.3m (30%) compared with last year, the majority of which is in ELSGP.

- **CNSC and CTIS Schemes** have incurred a small amount of expenditure (£84k), with damages spend of £30k and the balance in NHS legal costs to date.

Year to date scheme expenditure overall, including GPI, has increased by £105.2m (8%) compared to 2021/22. Comments on expected outturns are included below in the Indemnity Scheme Expenditure section.

**Other budget variances include:**

- **Member income** £3.5m higher than budgeted. An additional £5m was built into member pricing for the full year to cover contribution corrections arising from data issues. There have not been any calls on the buffer year to date.

- **Advice income** £135k (17.6%) below budget YTD at £633k, though the percentage gap to budget has reduced since September as Education income has picked up as the NHS England SLA has now been signed and is in effect.

- **Administration costs** £3.8m (10.5%) underspend year to date:
    - **Pay costs** are underspent by £3.0m (10.9%) YTD. Excluding capitalised CSP posts, the headcount profile for November is 134 FTEs below budget yet 7.5 FTE more than the Q2 forecast for 30 November. The main reason for underspend YTD is due to delays in the launch of the CEP programme and the consequent plans to increase the workforce. Consideration of the effect this may have on delivery of savings in the business case for CEP is currently underway. We expect a revised update once the Q3 forecast is undertaken in January. Additionally, difficulties recruiting for more technical roles within DDaT has also led to a higher numbers of vacancies.
    - **Non-payroll costs** are underspent by £807k (9.3%) YTD with the majority of areas underspent. Compared to the Q2 forecast position of £7.8m, YTD non-pay is £61k (0.8%) overspent.

- **Capital spend** year to date is £3.1m underspent against a budget position of £5.6m. YTD capital is £34k (1.3%) underspent against the Q2 forecast.

**The Board is asked to note the report, and actions taken to manage the financial position.**

## DEPARTMENT EXPENDITURE LIMIT (DEL POSITION)

The income and expenditure for the year to date on DEL budgets are shown below. This is in relation to the settlement of claims in year and NHS Resolution's administration costs.

| | Budget | Actual | Vs Budget | | Prior Year | Vs Prior Year | |
|---|---|---|---|---|---|---|---|
| | £'000 | £'000 | £'000 | % | £'000 | £'000 | % |
| Member Cont. | -1,656,600 | -1,660,104 | 3,504 | 0% | -1,683,276 | -23,172 | -1% |
| Other | -768 | -633 | -135 | -18% | -624 | 9 | 1% |
| **Total Income** | **-1,657,368** | **-1,660,737** | **3,368** | **0.2%** | **-1,683,900** | **-23,163** | **-1.4%** |
| Member Funded Schemes | 1,338,374 | 1,338,157 | 218 | 0% | 1,258,704 | -79,452 | -6% |
| DHSC Funded Schemes | 50,630 | 58,623 | -7,993 | -16% | 47,266 | -11,357 | -24% |
| GPI Schemes | 0 | 62,737 | -62,737 | 0% | 48,428 | -14,309 | -30% |
| Coronavirus Schemes | 0 | 84 | -84 | 0% | 0 | -84 | 0% |
| **Scheme Expenditure** | **1,389,004** | **1,459,600** | **-70,596** | **-5.1%** | **1,354,398** | **-105,202** | **-7.8%** |
| **Administration** | 36,372 | 32,539 | 3,833 | 11% | 27,745 | -4,795 | -17% |
| **Total Expenditure** | **1,425,377** | **1,492,140** | **-66,763** | **-4.7%** | **1,382,143** | **-109,997** | **-8.0%** |
| **Net Expenditure** | **-231,992** | **-168,597** | **-63,395** | **-27.3%** | **-301,757** | **-133,160** | **-44.1%** |
| **Parliamentary Funding** | **92,856** | **92,856** | **0** | **0.0%** | **91,662** | **-1,194** | **-1.3%** |
| **Overall Net Expenditure** | **-324,848** | **-261,453** | **-63,395** | **-19.5%** | **-393,419** | **-131,966** | **-33.5%** |

Note that favourable variances to income (i.e. higher actuals than budget) are shown as a positive variance and any adverse variances (i.e. lower actual income vs prior year) are shown as a negative variance.

For expenditure, the opposite applies whereas an overspend vs budget is shown as a negative variance and an underspend shown as a positive variance.

Net expenditure (or surplus if a negative figure) will show as a positive number to denote an underspend/surplus, and conversely a negative variance to denote an overspend/shortfall.

**INDEMNITY SCHEME EXPENDITURE**

| SCHEME | Budget | Actual | Vs Budget | | Prior Year | Vs Prior Year | |
|---|---|---|---|---|---|---|---|
| | £'000 | £'000 | £'000 | % | £'000 | £'000 | % |
| CNST | 1,303,668 | 1,311,728 | -8,061 | -1% | 1,227,343 | -84,385 | -7% |
| LTPS | 29,454 | 21,732 | 7,722 | 26% | 28,924 | 7,192 | 25% |
| PES | 5,253 | 4,697 | 557 | 11% | 2,437 | -2,259 | -93% |
| **Total Member Funded** | **1,338,374** | **1,338,157** | **218** | **0%** | **1,258,704** | **-79,452** | **-6%** |
| DH Clinical | 34,908 | 40,719 | -5,811 | -17% | 38,075 | -2,644 | -7% |
| ELS | 10,573 | 13,260 | -2,687 | -25% | 4,799 | -8,461 | -176% |
| DH Non-Clinical | 4,790 | 4,274 | 516 | 11% | 4,051 | -223 | -6% |
| Ex-RHA | 359 | 369 | -11 | -3% | 341 | -28 | -8% |
| **Total DHSC Funded** | **50,630** | **58,623** | **-7,993** | **-16%** | **47,266** | **-11,357** | **-24%** |
| CNSGP | 0 | 5,750 | -5,750 | 0% | 1,907 | -3,843 | -202% |
| ELGP | 0 | 0 | 0 | 0% | 772 | 772 | 0% |
| ELSGP | 0 | 56,987 | -56,987 | 0% | 45,750 | -11,238 | -25% |
| **Total GPI** | **0** | **62,737** | **-62,737** | **0%** | **48,428** | **-14,309** | **-30%** |
| CNSC | 0 | 84 | -84 | 0% | 1 | -82 | 0% |
| CTIS | 0 | 0 | 0 | 0% | 0 | 0 | 0% |
| **Total Scheme Costs** | **1,389,004** | **1,459,600** | **-70,596** | **-5%** | **1,354,399** | **-105,201** | **-8%** |

## Prompt Payment Policy and Reporting of Performance

The number of invoices paid within 30 days is 87%, below the target of 95%, for the year to November with relevant payments totalling £126m. In October and November, the number of payments paid on time was 90% and 96% respectively. In October 59% of payments breaching this KPI were attributable to IT & Facilities, due to recent staffing changes and vacant posts within IT and Facilities Depts. However, the results for November were notably better than those for October, and this is believed to be due to increased awareness of this KPI for staff in key posts.

Two new Finance Business Partners have started in December and will form a working group with the payments manager as previously documented.  A key output from this will be to raise awareness of the payment process and the KPI for prompt payment across the organisation.

# Part 1 performance report – operations

Wednesday 18 January 2023

## Operations - Claims Management Service

Reports on the number of claims for compensation received by NHS Resolution under our three principal indemnity schemes, alongside a high level overview of the portfolio of those claims. Our performance in the management of claims against our key performance indicators is commercially sensitive and included in the papers in Part 2.

The pattern of a slight reduction in reported case numbers in the CNST scheme has continued into the start of 2022/23 with a 0.6% reduction compared with 2021/22, albeit with a smaller percentage difference in this reporting period compared with the start of the year (3%). Compared with pre-pandemic reporting (7,562 in 2019/20) there has been a 9.2% reduction. This will most likely be due to continued impact related to the pandemic. 2019/20 saw an increase of 4.78% from previous years, so against 2018/19 numbers there has only been a 4.8% reduction. Across the other two principal schemes (LTPS and CNSGP) reported numbers have increased during this reporting period compared with last year.

When compared with reported cases for 2021/22 (2,047) the LTPS 2022/23 numbers are 1.6% higher. As with CNST, the percentage difference in this reporting period compared with the start of the year is smaller (3%) However, they are 17.2% lower than pre-pandemic numbers (2,510 in 2019/20). 2019/20 saw an increase of 6% from previous years, so against 2018/19 numbers there has only been a 12% reduction.

The split between employer's liability (EL) and public liability (PL) continues towards a larger volume of PL cases. The percentage of PL cases is 36% but this is subject to change through the year.

In the CNST portfolio, as they were in 2021/22, the highest volume specialties are Orthopaedic surgery (617 claims), followed closely by Emergency Medicine (612 claims) and Obstetrics (569 claims). General surgery and gynaecology are also in the top five. Obstetrics remains the top specialty by value (£934m).

Orthopaedic injuries remain the largest injury type in LTPS (1,205 claims), the second largest being psychiatric damage (365 claims). We see greater volatility in this portfolio as percentages can be more easily affected by small variations in numbers. Slip and trip type incidents remain the highest cause of LTPS cases (367 claims), followed by assault (258 claims) and data breach cases (190 claims).

## Charts

This report confirms case numbers up to 30 November 2022.

### Number of claims and incident reports received in 2021/22 compared with 2022/23

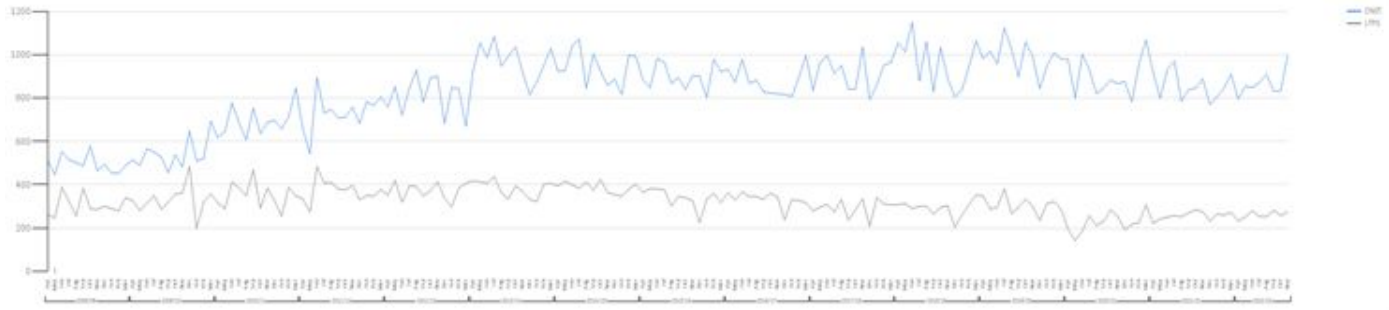
| Schemes | 2021/22 | 2022/23 | Change |
|---|---|---|---|
| Clinical Negligence Scheme for Trusts (CNST) | **6,909** | **6,866** | **-0.6%** |
| Liabilities to Third Parties Scheme (LTPS) | **2,047** | **2,079** | **+1.6%** |
| Clinical Negligence Scheme for General Practice (CNSGP) | **933** | **1,441** | **See below**** |

The figures for CNST exclude birth injury incidents notified under the Early Notification (EN) initiative.

** The CNSGP numbers continue to increase (+54.4% increase on last year) following the inception of the scheme in April 2019. The rate of growth continues towards a plateau as expected for a maturing scheme and as shown on the chart below. The small volume of cases in this scheme makes it difficult to assess whether there has been any significant impact from COVID-19.

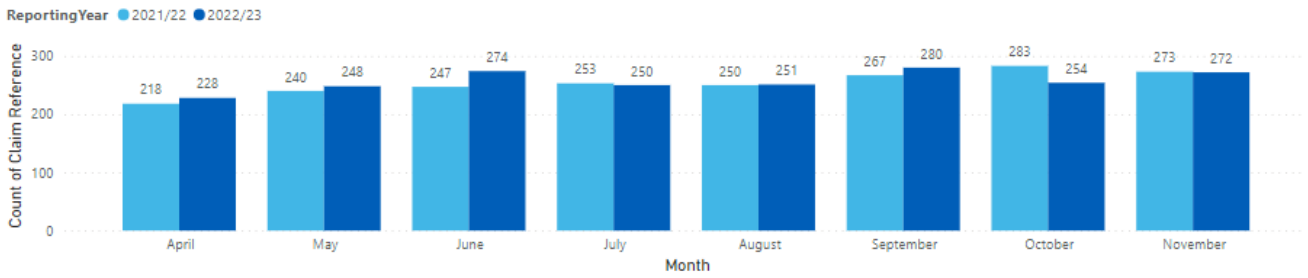

### New claims over the last fourteen years

This chart shows the month-on-month volatility of new claims received in the last fourteen full financial years, excluding CNSGP.

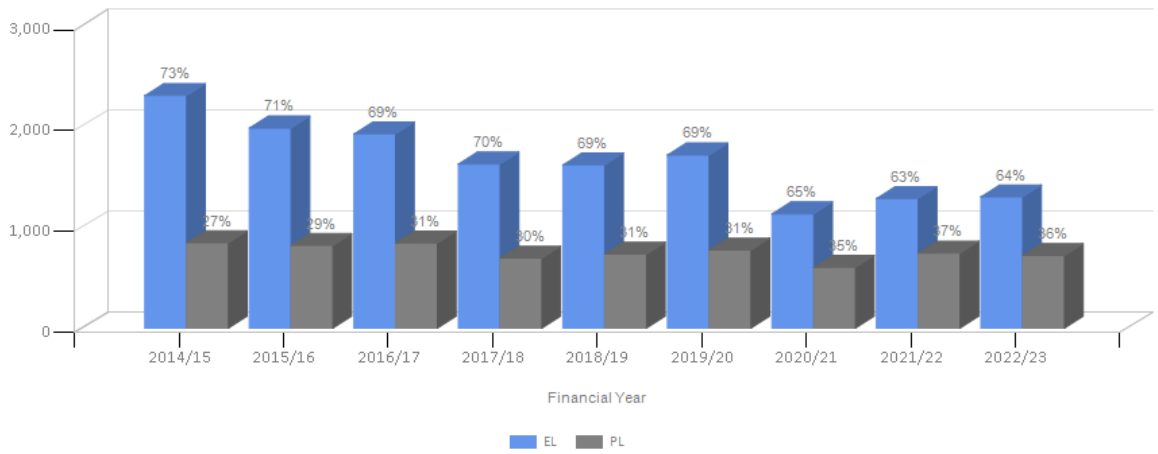


## Non Clinical

### LTPS EL/PL claim numbers 2021/22 compared with 2022/23




### LTPS EL/PL claims reported compared with the same period since 2014/15



# Practitioner Performance Advice Service (up to end of November 2022)

**Executive Summary**

Case advice

- We have received 521 new requests for advice to date, compared to 522 in the same period last year.
- Performance against KPIs is on track, with the exception of the KPI associated with exclusions and suspensions. In most cases, these breaches were the result of delays from healthcare organisations in responding to requests to review suspensions and exclusions. In all such cases, the Advice service has proactively followed up the requests to ensure these cases are reviewed with the employer/contracting body.

Assessments and other interventions

- We are currently piloting the inclusion of 'Professional Dilemmas' in our behavioural assessments. This is a new bespoke test developed in conjunction with one of our suppliers of behavioural assessments, to assess practitioner's judgement in situations encountered in the workplace. An evaluation will be undertaken in due course.

Insights programme, including education

- Twenty education events have been delivered, with 294 participants trained. Eighty nine per cent of participants rated our programmes at least 4 out of 5 for quality, with 98% reporting they would be happy to recommend our training to others.
- We are on track to launch the *Compassionate Conversation* programme in the North West in Quarter 3. Learner impact assessments will commence at that point.
- We published a new *Insights* paper and accompanying video on Healthcare Practitioner Alert Notices (HPANs) in November. This is the fourth *Insights* paper this year and we anticipate publishing a further two by Q4.

**Board is asked to note the position.**

### Chart 1: Before and after metrics for training events

| Average delegate self-assessed score of knowledge and skills pre and initial post learning across all events | Pre-event Average score | Post-event Average score | Variance +/- | Previous FY(21/22) Average Variance +/- |
|---|---|---|---|---|
| Average **knowledge and experience** in relation to the learning objectives i.e. cumulative self-reported score/no of delegates/respondents | 2.6 | 4.2 | +1.5. | +1.3 |
| Average **skills** needed to meet the stated learning objectives i.e. cumulative self-reported score/no of delegates/respondents | 2.9 | 4.1 | +1.2 | +1.0 |

### Suspensions and exclusions in England

Eighty-seven per cent of suspensions and exclusions (131 out of 151 cases) in England were reviewed by the Advice service within the target timeframe. In most cases where a review was not undertaken within the required timeframe, this was due to the lack of availability of external contacts, and action to review these cases has now been taken.

### Ongoing exclusions as at end of November 2022

There were 40 exclusions in secondary care in England that were ongoing at the end of November 2022. The median length was 8.6 months and the average mean length 11.1 months. A summary of the number and length of ongoing exclusions is shown in the table below.

### Chart 2: Ongoing exclusions

| Length of ongoing exclusion | Number of ongoing exclusions |
|---|---|
| 0-6 months | 16 |
| 6-12 months | 7 |
| 12-18 months | 10 |
| 18-24 months | 4 |
| 24+ months | 3 |
| **Total** | **40** |
| **Median length** | **8.6 months** |
| **Mean length** | **11.1 months** |

** This data is based on both immediate and formal exclusions in England.*

**Exclusions ending in April-November 2022**

Between April and November 2022, 41 exclusions in secondary care in England ended. The length of these exclusions ranged from under one month to 27 months.

***Insights* publication: Healthcare Professional Alert Notices (HPANs): insights from nine years of managing the scheme**

- The most recent *Insights*, published in November, looks at key features from a review of all requests for an HPAN we have received since 2013, when Practitioner Performance Advice assumed administrative responsibility for the scheme. In sharing this publication, the key aim is to raise awareness of the HPAN scheme and its importance as one means of protecting patient and public safety.
- As well as being published on our website, the *Insight* has been shared with key external stakeholders, including regulatory partners, Medical Directors and HR Directors and in external newsletters such as *Resolution Matters*.

# Operations - Primary Care Appeals

**Executive Summary**

The performance review for YTD up to 30 November 2022 is presented for Primary Care Appeals along with an update on decisions taken regarding non-payment of costs associated with the lateral flow device distribution service, decisions on COVID-19 pharmacy payment appeals, and the Judicial Review position.

In summary:

- Performance against KPIs and MIs is on track;
- The first decisions have been made under the NHSLA (Pharmacy Remuneration – Payment Disputes) (England) Directions 2022 regarding non-payment of costs (specifically late claims) associated with the lateral flow device distribution service;
- Under the above Directions, the first cases have been considered regarding the refusal of claims associated with providing pharmaceutical services during the pandemic; and
- The one, active judicial challenge has been dismissed by the court and the Claimant's application for permission to appeal has been refused.

**Board is asked to note the position.**

**NHSLA (Pharmaceutical Remuneration - Payment Disputes) (England) Directions 2022**

As reported to Board on 13 September 2022, the scope of the above Directions is sufficiently broad to enable pharmacists to lodge a dispute with NHS Resolution regarding non-payment of costs associated with the lateral flow device distribution service. The two disputes which the Primary Care Appeals had so far received (from the same NHS community pharmacy contractor relating to different premises) were determined on 6 October 2022 in favour of NHS England on the basis that NHS England was under no obligation to make retrospective payments to the contractor.

In light of these appeals, DHSC Pharmacy Regulation Branch will liaise with the UK Health Security Agency, which funded the service, to establish a fair and robust local dispute resolution for affected contractors. Primary Care Appeals has offered to contribute towards this work, drawing on our longstanding experience in delivering fair resolution.

Primary Care Appeals has also considered three appeals relating to refused claims for staffing costs associated with delivering pharmaceutical services during the pandemic. These are part determinations because, in all three cases, additional information is required before full and final determinations can be reached. The NHS Business Services Authority has been directed to provide its full reasons for refusing the claims and the Appellants are required to provide additional evidence to support their claims. One determination defines the scope of staffing costs which sets policy for future cases. All three determinations are published on Primary Care Appeals' webpages.

**Judicial Review Update**
**Previous position reported to the Board on 15 November 2022**

**Dr Shashikanth v Hillingdon Clinical Commissioning Group**

The dispute related to two General Medical Services Contracts held by the Claimant for the provision of primary medical services. On 1 October 2019, the NHS (General Medical Services Contracts and Personal Medical Services Agreements) (Amendment) Regulations 2019 inserted a new paragraph 15A into Schedule 3 of the National Health Service (General Medical Services Contracts) Regulations 2015 (as amended) requiring either sign-up to the Network Contract Directed Enhanced Service Scheme or at least ensuring that the Scheme is available to patients.

The Claimant did not sign-up to the Scheme nor did he co-operate with those managing the Scheme resulting in NHS England issuing a termination notice which was upheld by Primary Care Appeals on 24 June 2021.

The Claimant and Primary Care Appeals engaged in pre-action protocol following which the Claimant filed its application for judicial review.

Primary Care Appeals filed its summary grounds of defence with the Court explaining the reasoning behind its decision and its role, in order to assist but does not intend to engage further with the Claim (thus removing the risk of a costs award).

The hearing took place on 28-29 June 2022.

On 11 October 2022, Judgment was issued dismissing the claim.

**Update**
**The Administrative Court refused the Claimant's application for permission to appeal the Judgment. He has 21 days (from 9 November) to apply directly to the Court of Appeal.**

## Board Meeting

| | |
|---|---|
| **Agenda Item:** | **Item 2.3** |
| **Title of Paper:** | **Complaints report** |
| **Responsible Director/Lead:** | **Helen Vernon/ Tinku Mitra** |

### Summary of Paper:

(Brief introduction to the key points)

This Board paper shows activity during Q1 and Q2 for FY 2022/23. The numbers are set against a comparative summary of complaints received for Q1 to Q2 for the past 3 years where there are complete reporting periods .It includes details of numbers of complaints received during the year, performance in responding to complaints, learning points and areas to be taken forward. The paper has been informed by working with local complaints leads.

This reporting period is not aligned to the other performance activity reports because of the nature of our reporting to the Board on complaints, which is twice a financial year rather than an ongoing reporting cycle.

The key points are set out in the introduction to the report. The numbers have remained very similar to previous reporting periods for those complaints handled within the formal policy where direct comparisons can be made for FY21/22 and FY 22/23. There were 4 referrals at stage 2 of the complaints policy and 1 of 4 was partially upheld.

We have also improved infrastructure to capture both formal and informal and learning and we have identified that Litigants in Person (LIPs) play a key feature in the numbers of complaints and consideration being given on whether there is there more we can do with this cohort than we are doing already?

We have also identified learning from complaints and raised the issue of how we support staff to manage difficult conversations which can be a feature of complaints handling.

### Board Action requested:

*(Insert clear action i.e. whether Board are asked to agree, note, discuss)*

The Board are asked to review the report and actions to be taken.

### Potential Risks

*(Detail of risks/alignment with Strategic Risk Register)*

The complaints themselves do not give rise to risk but there may be incidents that led to the complaint and/or learning which could identify new risks.

## Equality, Diversity & Inclusion

*(Evidence how this is addressed in the paper)*
The complaints policy development has incorporated an equality impact assessment.

## Has the Patient and Public Interest been taken into account?

*(Scope and how feedback was incorporated/actioned)*

The complaints policy is aimed to ensure that members of the public are able to access the policy and to make it accessible to all complainants to pursue a complaint.

This has also been taken into account in the recent review of the complaints policy.

**COMPLAINTS REPORT: FY 2021/22 to 2022/23**

## 1.INTRODUCTION

This report highlights numbers of formal complaints logged which were received in Q1 and 2 and compares them to the same two quarters in the previous three 3 years (FY 2020/21 to 2022/23). This means they were in scope of the terms of our complaints policy. This is an update to the complaints report issued to the Board in July 2022. It is important to note that direct comparisons of earlier years may be misleading because out of scope complaints were not previously separated so numbers may appear lower in number within formal complaints logged but we also now have improved recording of complaints dealt with informally within the local business function within 10 working days and these may also include matters out of scope of our policy.

We have also included the numbers and learning points of complaints which are out of scope of the policy and dealt with as part of a local resolution in order to provide transparency of the issues and learning.

**The key points for the last 2 quarters are as follows**

- The numbers have remained very similar to previous reporting periods for those complaints handled within the formal policy where direct comparisons can be made – FY21/22 and FY 22/23.

- The claims function remains the subject of the largest number of complaints, both those handled within the policy [14] and those deemed out of scope [15.] The latter are dealt with under the local Claims Framework for the resolution and learning from complaints about claims management. The numbers need to be seen in the context of activity overall for these quarters which for claims and incidents reported to Clinical Negligence Scheme for Trusts (CNST), Liabilities to Third Parties Scheme (LTPS) and Clinical Negligence Scheme for General Practice (CNSGP) [source Board performance report November 2022] was a total of 7658. Where complaints are out of scope, these relate to dissatisfaction about how the claim was handled, and specific decision on claims made. There were no formal complaints received for Practitioner Performance Advice and for the Appeals service although one formal complaint which had been received for the previous financial year for Advice Service was referred to Stage 2 during this period.

- The majority of the claims related complaints were from Litigants in Person (LIP) this is where claimants are not represented by legal advisors. LIPs often create more communication with claims handlers and may require more time to explain and understand the claims management process. The interim Chair Mike Pinkerton also identified a broader need to ensure how LIPs are supported in his review of cases. The claims management team have produced high level guidance for case managers on communicating LIPs which has been implemented and further training and support is being planned.

- We have seen a small number of complaints (5) related to the Early Notification scheme which includes those also managed out of scope which were partially upheld or fully upheld. Complaints have arisen as it would appear that families have not always been informed about the scheme or about our organisation, and when they become aware of the scheme, they have reacted negatively, partly due to the lack of communication with the family and also due to delays involved. It should be noted that post April 2021 NHS Resolution has assumed responsibility for communicating with the families directly once the Trust has made us aware of an incident. This should hopefully resolve some of the issues that we have seen in the earlier cases in relation to the late knowledge of NHS Resolution's involvement. With respect to delays, there are at times outside our control and due to factors within the Trust or member organisation and we are exploring how we may manage expectations with families where these delays are outside of our control.

- During this reporting period, 4 complaints were escalated to the Chair, (Stage 2 complaints) 3 out of 4 complaints were not upheld and 1 was partially upheld. For this reporting period 2 of the stage 2 complaints were late due to needing more time for review and 2 were completed on time.

- We received 2 follow up enquiries from the Parliamentary and Health Service Ombudsman (PHSO). The enquiry was a claimant who had gone to the Ombudsman following a complaint they had raised against a Trust in relation to a claim. The second enquiry related to a complaint where the claimant had made a claim against a GP practice. In both cases we responded back to the PHSO in relation to our role in the claim and there was no further follow up on both enquires.

- We continue to receive enquires through our complaints inbox about making claims for clinical negligence or where service users have a complaint directly against an NHS Trust. We continue to field these enquiries by signposting through the appropriate channels and the Complaints and Learning Manager (Claims) who provides information on how to make a claim where these queries are related to unreported claims.

- We continue to improve our processes for logging complaints which are being managed out of scope or informally addressed to identify any learning points or themes and we have identified those in Appendix 6.

- SMT are also keen to support staff where there are difficult or challenging conversations and are exploring what further actions can be taken in terms of structured debriefs, escalation to senior staff and there is also reference to an initiative noted at section 11 below which is being led by our OD team and working with PHSO to do so.

The following charts show further details as follows:

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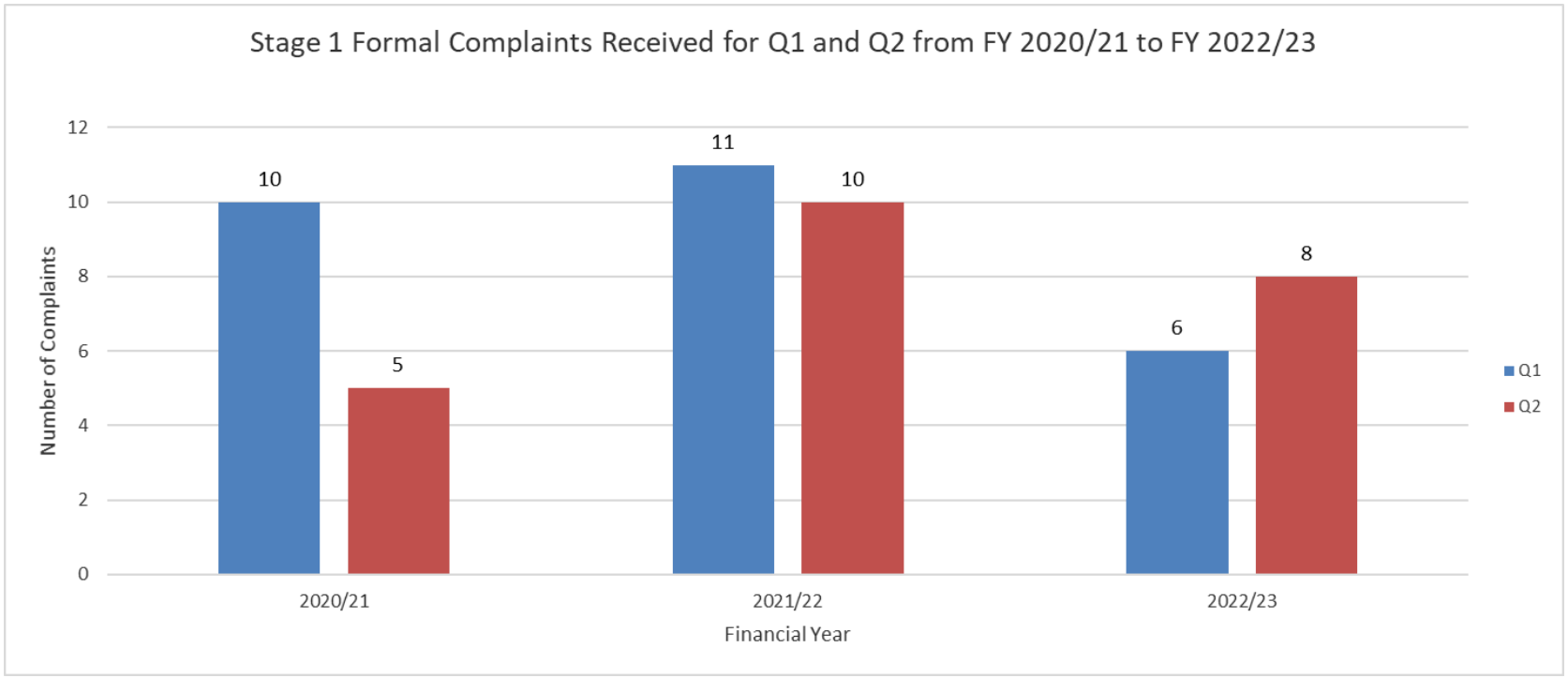
## 2. APPENDIX 1 - STAGE 1 COMPLAINTS WITHIN SCOPE OF POLICY

For the last 3 years, NHS Resolution recorded the following complaints received and handled through the complaints policy for Quarter 1 and Quarter 2 of the financial year.

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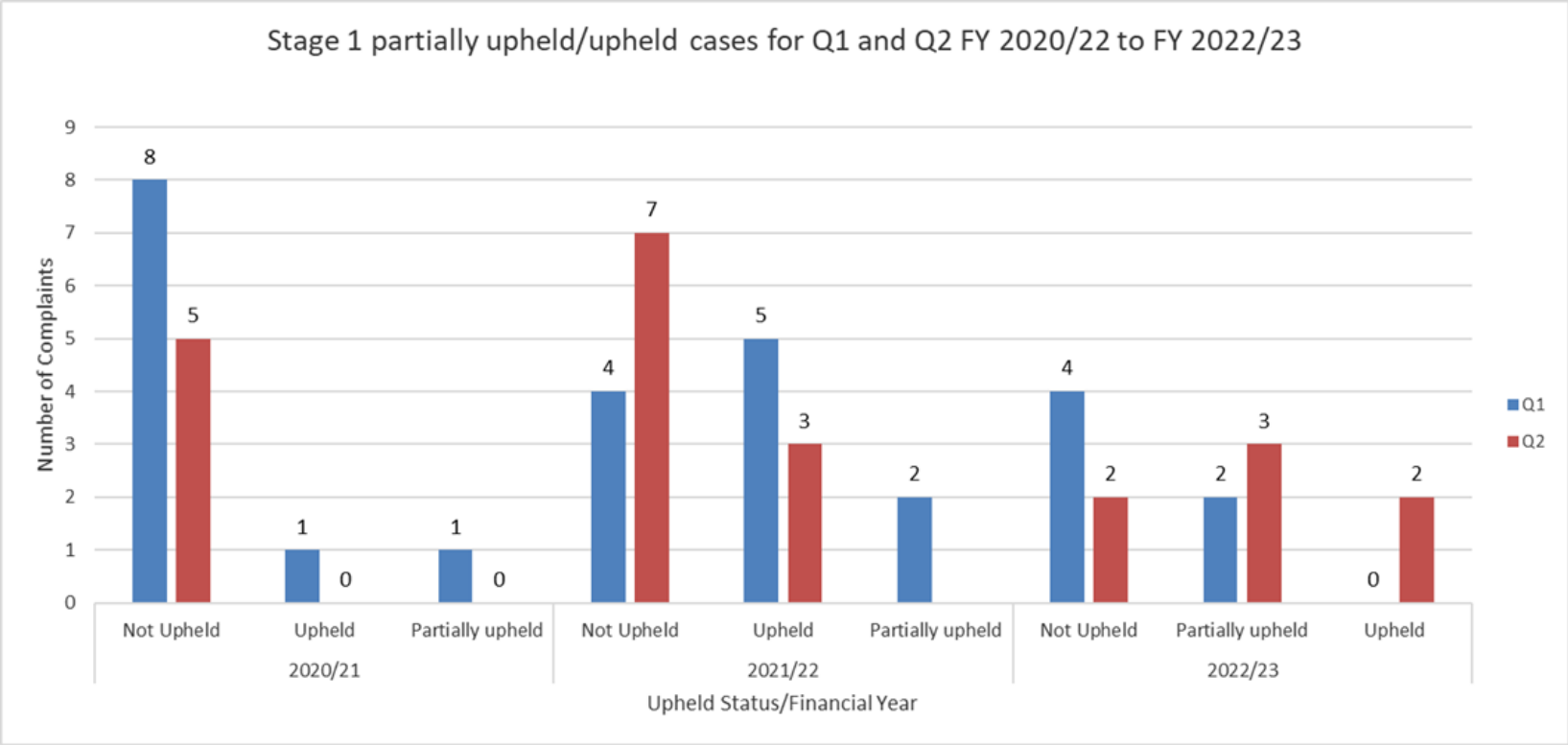
## 3. APPENDIX 2 - STAGE 1 COMPLAINTS WITHIN SCOPE OF POLICY WHICH HAVE BEEN UPHELD OR PARTIALLY UPHELD DURING THIS PERIOD [PLEASE NOTE THAT THIS WILL BE NUMBERS OF COMPLAINTS WHICH WERE COMPLETED DURING THIS PERIOD]

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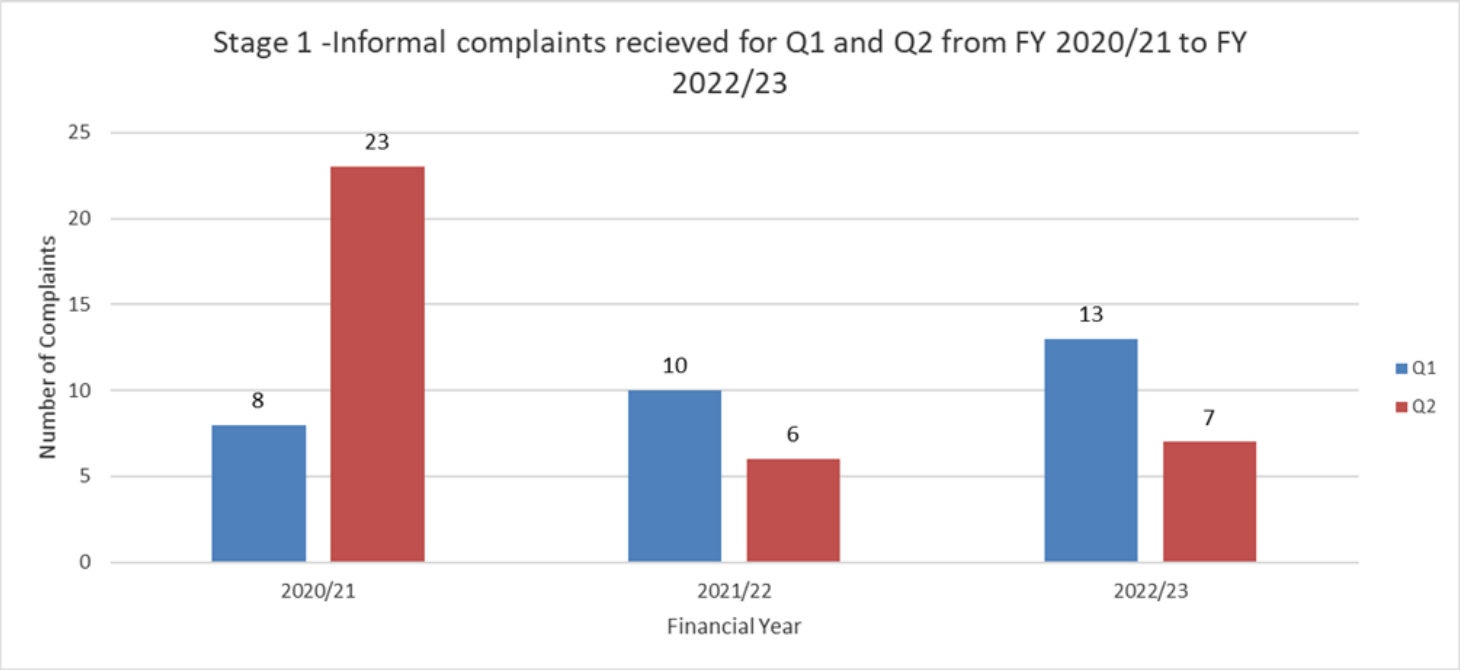
## 4. APPENDIX 3 – STAGE 1 COMPLAINTS HANDLED OUTSIDE THE SCOPE OF THE POLICY WITHIN LOCAL BUSINESS FUNCTIONS

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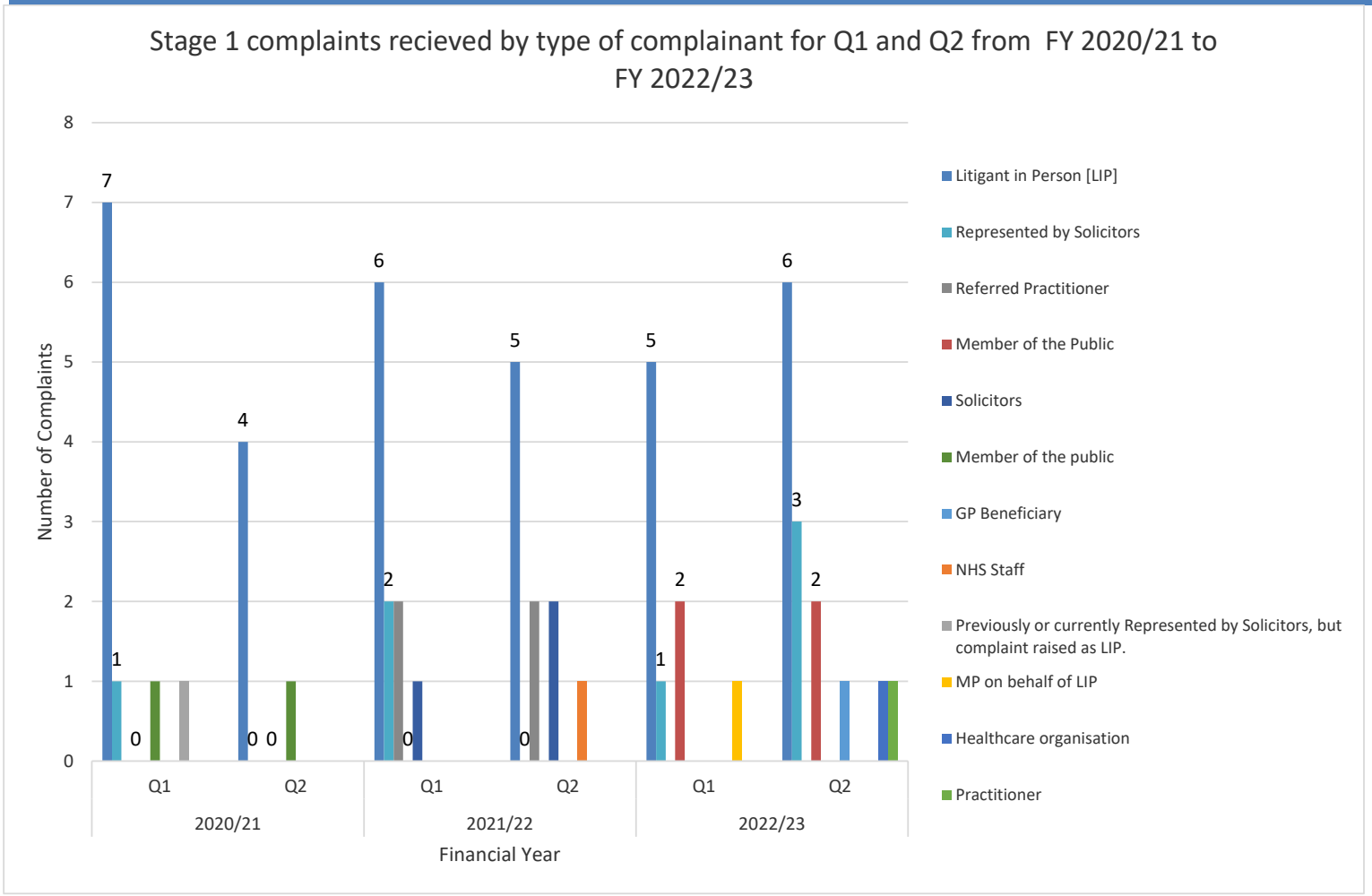
## 5. APPENDIX 4 - STAGE 1 COMPLAINTS RECEIVED BY TYPE OF COMPLAINANT

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## 6. APPENDIX 5 - STAGE 1 KPI PERFORMANCE [INTERNAL] FOR FORMALLY HANDLED COMPLAINTS

In relation to the KPI, we have discussed with SMT and noted that these are not KPIs as currently framed and that we should interpret these as Management Information and develop a more qualitative measure for a KPI which identifies the extent to which our responses are meaningful and adequate. This is referenced as ongoing action in section 11 below.

| | **Target** | **Q1** | **Q2** |
|---|---|---|---|
| 2020/21 Stage 1 complaints response time | 90% | 90% | 85% |
| 2021/22 Stage 1 complaints response time | 90% | 95% | 88% |
| 2022/23 Stage 1 complaints response time | 90% | 67%* | 63%* |

The KPI performance data for these 2 quarters is lower than previous years partly due to the lower numbers and the impact of the following cases being late and reasons why.

Q1 extended timeframe

There were 2 complaints which required an extension of time due to a number of issues which required investigation.

Q2 extended timeframe

3 cases required extended timeframes, one case which was a complex EN case. The other 2 cases took 26 days as opposed to the 25 working days set out in the policy.

We ensure that when dealing with complaints handling that we agree with a complainant a timeframe which allows for a meaningful response ensuring that we meet deadlines as much as we can but also ensuring we need additional time where we can to provide a meaningful response. This is in accordance with the PHSO's guidance.

## 7. STAGE 2 COMPLAINTS

During this reporting period, 4 complaints were escalated to the Chair, (Stage 2 complaints) these are complaints where the complainant has referred the matter to the Chair following dissatisfaction in relation to a response received at stage 1 of the policy. 3 complaints refer to claims management issues and 1 in relation to the Practitioner Performance Advice Service. The outcomes are as follows: 3 out of 4 complaints were not upheld and 1 was partially upheld.

**Complaint 1**

This Litigant in Person (LIP) raised a complaint in relation to delays about an investigation into a claim made on behalf of the claimant's family member. The delay was due to complex issues relating to expert evidence. At all times the Case Manager had been in regular contact with the appointed solicitors. The LIP also wanted financial compensation due to the inconvenience that they had suffered due to delays, the complaint was not upheld however whilst we understood the frustrations of the LIP but we were satisfied that we had done all to progress matters.

**Complaint 2**

This LIP raised a number of issues in relation to their complaint including: delays to the claim, failures by independent experts to address matters relevant to the claim, the level of compensation and also NHS Resolution's indemnity scope. A lot of time was spent on the handling of this complaint due to the LIP not being satisfied with the responses to their complaint which also involved a large volume of email correspondence to manage even at stage 2. This complaint was not upheld.

**Complaint 3**

This LIP was unhappy that we had requested an extension for the Letter of Response (LOR) relating to their claim following treatment received by their general practitioner. It appears that the General Practitioner (GP) did not report the claim to NHS Resolution for around 6 months after the LIP had reported that they intended to make a claim so some of the delays were inherited. Our LOR was over 4 months as we needed to obtain indemnity information as the GP's involved were agency workers. Due to the delay in confirming this the complaint was partially upheld. This case was quite uncommon in that the case involved sub contracted agency staff and confirming indemnity was not straightforward. We have also noticed that there has been some delays on GP scheme cases where there is more than 1 defendant for example a Trust and 2 general practitioners where we set up a separate claim for each case. The Service Improvement Team have been working on Co-defendant cases which should lead to a more defined process which should hopefully improve efficiency and reduce delays.

**Complaint 4**

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This case related to a Practitioner Performance Advice Service case where the practitioner was dissatisfied with an outcome from an Advice Service intervention. This was not upheld.

## 8. PARLIAMENTARY AND HEALTH SERVICE OMBUDSMAN (PHSO)

We received 2 follow up enquiries from the PHSO.

The first was a claimant who had gone to the Ombudsman following a complaint they had raised against a Trust in relation to a claim. The second enquiry related to a complaint where the claimant had made a claim against a GP practice. In both cases we responded back to the PHSO in relation to our role in the claim stating that we could only share information and correspondence that was not subject to legal professional privilege, and that to provide them with any information we would require the consent from both claimants. There was no further follow up on both enquires.

## 9. UPDATE FROM CROSS GOVERNMENT COMPLAINTS FORUM (CGCF)

The Cross Government complaints forum was held on 2 November and key points covered from the forum are set out as follows to help inform the implications for further development of our policy and complaints handling.

1. The PHSO updated on the UK Central Government Complaint Standards and implementing this guidance and embedding the standards into casework. Arm's Length Bodies are expected to follow the standards when implemented fully and we have advised the Board of these standards in previous reports. The Complaint Standards are geared towards patient complaints and does not always map to the nature of complaints we may receive and particularly where they are being taken forward in the context of a legal environment.

2. Some of the organisations represented at the CGCF are trailblazers and have implemented the set of standards into their organisations including the Food Standards Agency and the Driving Vehicle agency (DVA). The DVA have embedded the UK Central Government Complaint set of standards and they have done their own internal evaluation and marked themselves on complaint handling and scored themselves using the standards to show how they deal with complaints in their organisation and rated themselves on this and looked at areas they need to improve on.

3. There was also discussion about complaint handling in a post pandemic world and what this looks like and the following points were made:

4. Complainants are emailing often and wanting quicker response times, recruitment of staff is lower so this means that complainants are having to wait longer for response times, the amount of complaints has risen which could be because people are struggling due to the pandemic with longer waiting times across all services, also the complexities around some of the complaints has increased.

5. We discussed how the group could help with improving complaint handling, It was agreed to share best practice amongst colleagues and also explore legislation if needed with complainants, improve communication with our complainants for example pick up the phone and arrange a meeting. This also fits in line with our actions ensuring that we resolve matters in different ways.

## 10. APPENDIX 6 - COMPLAINTS THEMES AND LEARNING

The table below sets out the principal reasons (which are not necessarily upheld on investigation) for complaints (formal and those out of scope) logged for FY22/23 and learning taken forward. Previous reports have identified complaints logged in preceding years.

| 2022/23 - Quarter 1 | 2022/23 - Quarter 2 | Learning taken forward |
|---|---|---|
| **Claims (17)**<br><br>3-Lack of response to several emails<br>1-LIP questioning length of time taken for response<br>1-Unhappy with LOR delay and delays with Panel<br>1-GP unhappy at lack or response<br>1-Part 36 offer accepted but payment not received –delays<br>4-Delays<br>1-Complaint about EN team have handled investigation<br>2-Complaint about liability and extension of claim<br>1-MP complaint about update to an EN case regarding birth injury<br>1-Complaint about NHS handling of a claim and conduct of case manager<br>1-Complaint about responses to previous claim handling<br><br>**Appeals (1)** | **Claims (12)**<br><br>2-EN case - family unhappy that we have closed our investigation<br>1-Complaint against various care providers<br>2-Unhappy that we have not requested extension for LOR<br>2-Delays<br>1-Family have complained about delays and would like mediation to resolve<br>1-Solicitor's complaint about lack of update on case<br>1-Claimant making a complaint based on NHSR response to claim. Issues with timing, and failure to address all issues raised.<br>1-Lack of response to several emails<br>1-Complaint about no update on ENT review until 2 years later<br><br>**Practitioner Performance Advice (3)**<br>1-Complaint about Team Review<br>1-A complaint from a practitioner about a review of a decision on a Healthcare Professional Alert Notice (HPAN). However the specific complaint | 1. Emails not received to case manager emails inbox and not in junk mail. Incident report x2 submitted to IT to investigate.<br>2. Case manager has responded to LIP and apologised and offered a meeting with Trust. LIP has replied and seems content at our response and actions.<br>3. Notifications have been sent to case managers to remind them to check junk mail on a regular basis. The Complaints Learning Manager (Claims) has also asked that new starter trainers incorporate the checking of junk mail into their training.<br>4. Team leaders checking cases regularly with case managers and applying performance management where appropriate.<br>5. To frequently monitor HR/MSE including phone calls and emails regarding recruitment enquires.<br>6. A full review of the case was undertaken to understand what happened and to learn from things that did not work well. As a result, the team have revised their procedures and are making a number of changes to ensure that |

| 2022/23 - Quarter 1 | 2022/23 - Quarter 2 | Learning taken forward |
|---|---|---|
| 1-Enquiry about rural status affecting dispensing chemist which is considered locally and out of scope of the policy,<br>**Practitioner Performance Advice Service (1)**<br><br>1-Complaint about lack of feedback to candidate regarding outcome of recruitment | being addressed was about a member of the Advice staff | the process runs more smoothly and our customers receive a better service.<br>7. Advice Service are considering with the OD team on guidance to staff in handling difficult conversations |

## 11. APPENDIX 6 - NHS RESOLUTION COMPLAINTS ACTIONS

The following actions in respect of our complaints management have been progressed:

| Previous action reported | Update |
|---|---|
| Review of the NHS Resolution complaints policy has been implemented, we need to develop training for staff as well as on implementation of the policy for our service users | The Complaints and Learning Manager ( Claims) has been implementing training slides to new starters |
| Claims Management are waiting to sign off a review of the Framework for the resolution and learning from complaints about Claims Management | This was signed off and implemented to the Claims Team Leads in July 2022 |
| Monitor and track learning themes across all service areas and ensure these are embedded | There is now regular logging of complaints and learning within business functions |
| Research (in collaboration with Browne Jacobson and University of Nottingham) to consider how clear and understandable written complaints information is for patients and families with concerns about their care. | This will not be progressing due to issues relating to the use of complainant data which has been managed via the NHS Resolution incident reporting process. In addition we do not consider that the work progressed to date indicates much added value to what is already known in this area. |

**The following actions are to be taken forward or are ongoing**

| Actions to be taken forward | To be completed and owner of action |
|---|---|
| Review of Key Performance Indicators in light of the outcomes of the new complaints standards and also the context of providing a more meaningful qualitative KPI measure. | This will be led by the Deputy Director of Corporate and Information Governance and to be completed by 31 March 2023. |
| Handling Challenging Interactions including:<br>• Policy and Guidance<br>• Training and development<br>• Support for staff | In October, a meeting was held with the PHSO to understand how the PHSO manage complaints/challenge interactions. Since this meeting Jonathan Nashed, Organisational Development Business Partner has led on this work and has provided an update to the Operational Delivery Group [ODG] on the provision of support for all NHS Resolution staff dealing with challenging interactions.<br><br>A working group has been set up from all business areas in taking matters forward, we are looking at three main areas: policy and procedure, resources, and training. The drafting of the policy and procedure has commenced, with also a view of a link on Connect so staff can find access support around challenging interactions with further signposting and guidance.<br><br>OD to work on this piece of work to provide a cross organisational approach.<br><br>July 2023 |
| Continue training on supporting LIP | Ongoing |

Tinku Mitra
Deputy Director of Corporate and Information Governance
December 2022

# Board meeting – Part 1

Wednesday 18 January 2023

| | |
|---|---|
| Agenda item: | Item 4.1 |
| Title of paper: | Liaison with key stakeholders |
| Responsible Director/Lead: | Director of Membership & Stakeholder Engagement and Director of Safety & Learning |

## Summary of paper:

Non KPI related information for MSE and Safety & Learning is reported under liaison with key stakeholder's agenda item.

This paper is to update Board on strategic stakeholder engagement activity co-ordinated by MSE and Safety & Learning in the current reporting period.

## Board action requested:

The Board is asked to **note** the report.

## Potential risks:

Without effective managed relationships through media channels and with external stakeholders, we will fail to mitigate the following strategic risk:

*"fail to develop and maintain effective relationships with key stakeholders, members and customers"*

## Equality, diversity & inclusion:

We will reflect relevant aspects of Equality, Diversity and Inclusion in our media relations and stakeholder engagement, in particular reflecting the diverse range of patient and public interests served.

## Has the patient and public interest been taken into account?

We will be mindful of the need to serve the interests of different groups of patients and members of the public in preparing and issuing statements to the news media and while engaging with our external stakeholders.

# Part 1 Liaison with key stakeholders

Wednesday 18 January 2023

## Safety and Learning

### 1. 47 National and 56 Regional Engagements

At a national, regional and local level, the Safety and Learning team continue to engage with a range of members, beneficiaries and stakeholders from legal, governance and clinical teams. Through these engagements, the team are able to share insights and gather intelligence that ensures NHS Resolution remains sighted on wider issues and helps inform future resources produced by the team. A key component of engagements is supporting members and beneficiaries to review, analyse and interpret their own local claims data and triangulate the themes with complaints and incidents. Such engagements also present an opportunity to share national claims insights and promote recommendations produced alongside the team's resources.

The majority of engagements continue to be undertaken virtually, in line with current practice across member and stakeholder organisations. This period, however, has seen several in-person events taking place, with the opportunity for face-to-face engagement welcomed by those in attendance.

One of those events was the NHS Resolution Maternity Conference, held at the Royal College of Physicians in London on 28 November 2022. Over 200 delegates (senior midwives and obstetricians) attended from maternity units. A range of external experts and maternity safety specialists presented, as did members of the NHS Resolution's Early Notification team. A poster competition was held for Trusts to showcase best practice and quality improvement projects. The prize was awarded to the London Ambulance Service NHS Trust. The title of conference 'Collaborate the Improve Maternity Outcomes', highlights the alignment of this work stream to both NHS Resolution's 2nd and 3rd strategic priorities.

The Duty of Candour resource, launched on the 30th of March 2022, continues to generate a significant amount of interest across members and in particular clinicians, who feedback how the animation has simplified a complex topic. The team continue to undertake engagements presenting on this topic and such an example includes collaborating with the Health and Care Professions Council to deliver a webinar on the 2nd of November and attended by 257 delegates.

Supporting Learning from Medication Error Claims remains an area of focus across the team following the publication of the 6th Did You Know? Leaflet focusing on 'Extravasation'. Insights and learning from extravasation claims were shared at the Health Service Journal (HSJ) Patient Safety Conference during a speaker slot, as well as at a Safer Healthcare and Biosafety Network meeting and at a Specialist Pharmacy Network (SPN) Hub Leads meeting.

The Medication Errors work stream aligns with the World Health Organisation's (WHO) global ambition of improving medication safety and NHS England's National Medication Safety Improvement Programme. In addition to the above engagements, the team has shared learning and insights from medication error claims at the Healthcare Conference UK, at Integrated Care Systems (ICS) Medicines Safety Meetings and at several meetings with individual trusts.

Attendance at the Best Practice conference, via an exhibitor stand, led to over 100 new contacts added to NHS Resolution's mailing list, as well as several follow up engagements taking place to discuss resources in more detail and explore how the team can support members to learn from claims at a local level. Specifically, interest gained at the conference resulted in meetings with members to discuss the General Practice and Diabetes Lower Limb thematic reviews.

Learning from Complaints appeared to be another common feature across a number of engagements attended by the team this period. The team presented at a complaints conference, participated in an NHS England led quarterly meeting, and additionally saw the opportunity for collaboration with the claims function through joint attendance at a complaint manager's network meeting. This provided the opportunity to understand current themes within complaints and their relevance to potential emerging themes in claims. The opportunity to share current evidence and best practice relating to complaints management was also gained through these engagements.

## 2. Update on Safety and Learning Activity

The Safety and Learning team continue to focus on developing methods for evaluating the impact of their activities and resources. This is contributed to by a current quality improvement initiative being undertaken across the team, which is considering how feedback is collected, analysed and acted on. Collating feedback and evaluating impact is increasingly being considered in the planning stages of work, to ensure a feasible plan is agreed across all relevant parties involved in the work or project. This is supported by the 'Recommendation to Implementation' work stream which is focused on maximising the improvements that can be made as a result of the insights shared.

The quality improvement work also focusses on ensuring the team continue to develop the most effective working relationships, enabling collaborative working both internally and externally. An example of this has arisen with the regionalisation of the claims teams, with Safety and Learning regional leads commencing meetings with their regional counterparts in order to establish the best methods for sharing intelligence across the region, as well as supporting both members and each other's works streams.

Furthermore, the team have attended and contributed to a number of Getting It Right First Time (GIRFT) led deep dive reviews with Emergency and Acute Medicine teams within trusts. Part of these visits focus on learning form litigation with the team being able to explain how they can support trusts to analyse and make best use of the claims information within the scorecard. As a result, several requests for follow up discussions and support were made.

## Academic Partnerships Update

The key outputs of the Academic Partnership with London South Bank University and Staffordshire University have now been delivered and the contract has now ended. A Professional Business Case Approval Form for Department of Health and Social Care (DHSC) is currently being progressed internally at NHS Resolution before submission to DHSC. This will inform the feasibility of a further future procurement process for Academic Partnership Services.

**Thematic Reviews: 'Recommendations to Implementation'**

We have initiated a work stream to consider meaningful progress with NHS Resolution thematic review recommendations (and other external stakeholder recommendations), an approach termed 'Recommendations to Implementation'. This work stream is supported by the Safer Care Committee of the Royal College of Emergency Medicine (RCEM); a meeting took place on 12.10.22 with updates on Emergency Medicine pilot, including Emergency Medicine Recommendation Register and Terms of Reference for an Emergency Medicine Recommendations Oversight Group

Following a meeting with the Academy of Royal Medical Colleges, it was agreed to provide principles for Guidelines/Recommendations to be available at the point of care (promoting clear good medical practice of clinicians).

Maternity Recommendation Register launch date discussed at Recommendation Group meeting on 26.10.22.

Overall, the thematic reviews, which share national claims insights as well as both nationally and locally focused recommendations, continue to be a source of continued interest amongst members. To support the 'Recommendations to Implementation' work, the team continue to undertake ongoing engagements to discuss the reports' findings and recommendations, and support teams to ensure they can use these insights to drive improvements in care.

An update on 'Recommendations to Implementation' work stream was made to Panel Collaborative on 07.12.22, with this work being an ongoing area of focus across the team. A 'Recommendations to Implementation' briefing report and presentation is being prepared to share internally within NHS Resolution.

A webinar, hosted by DAC Beacroft, focused on the Clinical Negligence Scheme for General Practice year one report, and is to be followed up with plans for a Primary Care webinar event next year. Additional discussions and presentations relating to the report were held at a South East London training hub meeting, and a Devon Integrated Care Board meeting, with the latter generating the feedback from an attendee that they 'will share the report as widely as possible'.

The diabetes and lower limb report additionally continues to be discussed across several meetings and events. This includes members within integrated care services intending to use the report's recommendations to support a reduction in the variations to practice that occur within services across the same integrated care service/region. Feedback for this report also continues to be positive, with a comment made from an attendee at a regional Hertfordshire podiatry meeting advising the report and insights 'have been needed for a very long time.'

Collaborative working with Membership, Stakeholder and Engagement (MSE) colleagues have resulted in several coordinated social media campaigns that have increased the reach and awareness of these resources and their recommendations. Positive feedback and discussions are subsequently undertaken through social media platforms. In addition to views prior, in the last 2 months the diabetes and lower limb report has been viewed via the NHS Resolution website 645 times, with the CNSGP report 347 times.

### 3. Early Notification: 13 National and 8 Regional engagements

The team continue to work with key stakeholders to align processes, provide updates on reporting into the Early Notification scheme, and attend key meetings to share intelligence regarding potential rusts of concern. The team are on track to complete six cases stories by the end of the financial year, the most recent case story developed and in draft is relating to intermittent auscultation of the foetal heart rate. Feedback was gained on use of the case stories at the national maternity conference, many Trusts are using these in practice, and further work is underway to increase engagement with the case stories, and this will be further embedded with the NHS Resolution maternity campaign. A research brief on the evaluation of impact of Early Notification Scheme has been received from Academic Partners and methodology for evaluation of Early Notification Scheme is being agreed this month, ensuring both objectivity and academic rigor.

### 4. Maternity incentive scheme (MIS) Year four

Year four of the scheme began on 9 August 2021. Due to the Covid-19 pandemic, in December 2021, a decision was made by the scheme's Collaborative Advisory Group (CAG) to pause the reporting for year four of the scheme for a minimum of three months. It was relaunched in May 2022, with an extension of the submission deadline. There was additional incorporation of detail from the Ockenden Report, as the immediate, essential actions and the focus areas outlined in report are currently incentivised as part of MIS.

In response to concerns highlighted by trusts regarding their ability to achieve the scheme's requirements, the members of the maternity incentive scheme's CAG have further revised the scheme's standards in order to support trusts to continue to work towards improving quality and safety. A maternity update paper was presented to NHS Resolution Board on 13th September 2022 which included risk and mitigating actions. On 11 October 2022, the revised Year four guidance was published, which included strengthened technical guidance. The new conditions include the additional requirements for Trusts that the CEO of the Trust ensure that the accountable Officer (AO) for their ICB is appraised of the MIS safety actions' evidence and both sign the declaration form.

From a financial perspective, Trusts' contributions towards year four of MIS will not be collected in the 2022/23 financial year but will be collected in 2023/24 financial year. Year four results and payments will also be shared with Trusts at the earliest in point possible in 2023/24 to enable Trusts to make best use of the funds available to them.

The submission deadline has been extended to Thursday 2 February 2023, to provide Trusts with extra time to confirm assurance of achievement of the required standards. The Board declaration form has now been published and available for Trusts to use.

Following the letter from NHS England on 21 September 2022, there is now no national target date for services to deliver Midwifery Continuity of Carer (MCoC) due to current staffing pressures. Therefore, MCoC has been removed from safety action nine. MCoC remains in safety action two, with the option for Trusts to state that they are not offering MCoC to women currently. Trusts with suspended MCoC pathways, would still be expected to report their data within this safety action.

Recruitment is ongoing for a MIS Clinical Lead. MIS work steams are being supported by Deputy Director, Safety and Learning.

**Next steps**

**MIS Year four**

NHS Resolution teams to continue to work closely with NHS England & Improvement's finance team, NHS England comms team and the Maternity Transformation Programme (MTP).

**MIS Year five**

A Year five workshop is scheduled for 16 December. A set of principles for Safety Actions have been agreed to support the assessment of current Safety Actions to ensure there is proportionate detail and appropriate inclusion for Year five.

**Reverifications**

The MIS team is currently working with 11 Trusts which have been contacted regarding concerns about their maternity incentive scheme declaration in year 3/2/1 of MIS and for which MIS reverification is ongoing but delayed due to workforce pressures within the MIS team. This detail has been placed on the risk register.

**Evaluation of MIS**

Methodology for evaluation of MIS is being agreed this month and supported by the appointment research fellow and exploring an external reference group. This approach ensures that the evaluation maintains objectivity and academic rigor.

**5. Individual Trust Visits: 74**

Increased utilisation of videoconferencing has enabled trust engagement to continue despite the operational pressure trusts continue to experience. Furthermore, this way of working has increased the opportunity to meet with groups of trusts within an Integrated Care System and exchange knowledge and experience of learning from claims as well as promoting the benefits of reviewing their individual Trust Scorecards.

**Breakdown**:

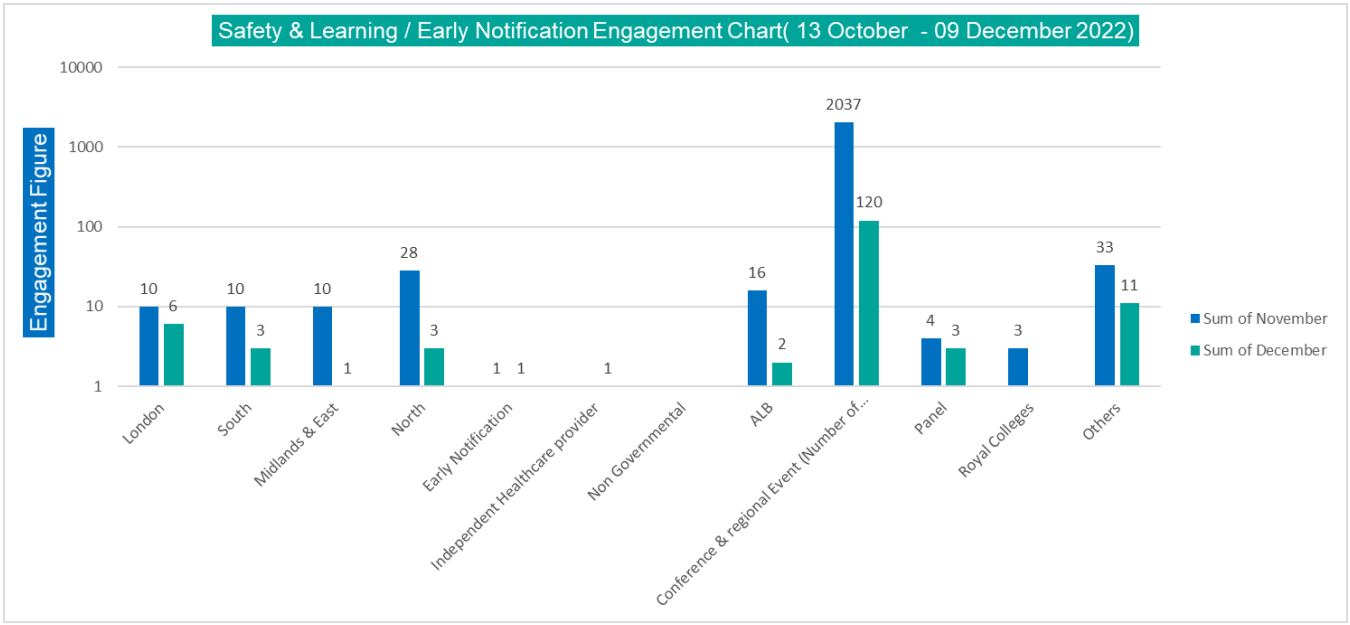
- London: **16**
- South: **14**
- Midlands and East: **11**
- North: **31**
- Early Notification**:** **2**

## 6. Clinical Hours

The Safety and Learning team consist of 25 expert team members, 22 of which maintain professional clinical registration across a range of allied health, nursing, midwifery and medical disciplines. The team is divided regionally, offering specialised support to members in the North, Midlands and East, South and London region. Additionally, on account of diverse professional backgrounds, the team can provide expertise across a range of healthcare specialties including clinical, governance/quality and project management. Fifty percent of the team currently work a minimum of one day per month within their clinical specialty to maintain patient contact, support front line clinicians and promote the work of the safety and learning team. The teams dedicated General Practice workstream is led by the Safety and Learning Lead for General Practice and a senior clinical advisor who supports the team two days per week. The General Practice team work nationally to support members to learn from claims arising from General Practice. This provides valuable opportunities to compare themes across primary and secondary care, which the team are able to share and use to encourage collaboration across the whole healthcare system when implementing improvements in care.

## 7. Infographic:

The table on page 5 provides a summary of virtual engagements made with NHS Resolution's Safety and Learning team with member trusts and beneficiaries. Some of the engagements include colleagues from claims, Early Notification, Practitioner Performance Advice teams or finance to support the content as requested. This data does not include telephone and email communications, response to queries and awareness of resources as this is covered in the local KPI summary. The value associated with conferences and regional events is the number of attendees engaged with. Details of each engagement are available on request.



***Data below reflects engagements since the previous Board report***

Figure 1: Safety and Learning individual trust engagement from *13th October to 9th December* the total number of engagements during this period is 177. However, the current operational pressures these organisations face are a limiting factor, and a few events and Trust visits were cancelled by members and beneficiaries due to Omicron COVID-19 pressures

| Engagements | November | December |
|---|---|---|
| London | 10 | 6 |
| South | 10 | 4 |
| Midlands and East | 10 | 1 |
| North | 28 | 3 |
| Early Notification Team | 1 | 1 |
| Independent health care provider | 0 | 1 |
| ALB | 16 | 2 |
| Conference & regional Events (Number of recorded attendees) * | 2037 | 120 |
| Non-Governmental | 0 | 0 |
| Panel | 4 | 3 |
| Royal Colleges | 3 | 0 |
| Others | 33 | 11 |

*This number reflects the number of recorded attendees at national conferences and regional events Facilitated by the safety and Learning team

| | |
|---|---|
| Members and Beneficiaries | Depicted by trust number per region |
| Independent health care providers | Independent Members and Beneficiaries |
| Conferences and regional events (NHS Resolution led and ones where NHS Resolution in attendance). | National events numbers where NHS Resolution has a stand or clusters of engagement with membership. It may be difficult to capture trust numbers within this format but reports on these engagements can be found separately. Therefore, trust Contacts may not be wholly accurate in this report. Attendance at these events will be captured in future and added to these figures.<br><br>Regional events led by NHS Resolution will include trusts engaged with at the event without specifying geographical reach which is usually wide.<br><br>Other contacts made here will include their respective groups in this table e.g., RCN congress, Bristol safety conference, Elderly care conference |
| Arm's length bodies and DOH | e.g., Care Quality Commission, NHS Improvement, NHS England and NHS Blood and Transplant |
| Non-governmental and third sector | Charities, associations and organizations<br><br>e.g., Health Watch, AVMA, sign up to Safety, Listening place, Baby Lifeline |
| Panel other events | Depicted by number of trusts in attendance per region. Other contacts made here will be included in their respective groups. |
| Royal Colleges e.g., collaborative work on guidance representing NHS Resolution at meetings | e.g., Royal College Midwives, Royal College Nursing, Royal College of General Practitioners, Royal College of Anaesthetists, Royal College of Physicians, Royal College of Radiologists, Royal College of Obstetrics and Gynaecology |
| Others | e.g., CCGs, Patients, families' individual experts, networks and communities Future finance group, Safer Needles Network |

# Membership and Stakeholder Engagement

## Executive Summary

This paper provides an update on developments within the MSE function and across NHS Resolution to support the delivery of strategic and organisational priorities and business plan objectives through our communications and engagement.

### Strategic stakeholder feedback – obtaining feedback from our strategic partners

As in previous years, this feedback programme (approved by SMT in December 2022) will involve around 15 in-depth interviews with senior representatives from strategic partner organisations, including DHSC, other ALBs, Royal Colleges and bodies representing patients. The interviews will be undertaken by an independent market research consultant and are due to be scheduled in late-Q4/early-Q1, with reporting to the Board in May 2023.

Additionally, we will work with the Operational Delivery Group (ODG) to map existing feedback mechanisms, and move away from an annual survey of members, instead utilising targeted operational surveys that are driven by directorate needs and supported by MSE.

### 2022/23 corporate communication campaigns

MSE's focus during this reporting period has been the corporate maternity campaign.

| Topic/Focus | Description |
|---|---|
| *Delivering better* - a maternity-related campaign, built around a national NHSR maternity conference in November 2022 | The purpose of this three year campaign is to support our third strategic priority: collaborate to improve maternity outcomes.<br><br>Collaborate to improve maternity care<br><br>We delivered a fully-booked, national face-to-face maternity conference *Collaborate to improve maternity care* on 28 November at the Royal College of Physicians.<br><br>Our programme offered a practical exploration of maternity safety, in particular sharing learning from patients and trusts through the lens of our maternity work. Attendance of the event was excellent, with 215 of a potential 250 delegates attending, predominantly from maternity teams from across England.<br><br>The event that was co-chaired by Gill Walton CBE (CEO & General Secretary, Royal College of Midwives) and Professor Dame Lesley Regan (Non-Executive Director, NHS Resolution and Professor of Obstetrics and Gynaecology, Imperial College London).<br><br>We have shared recordings of the conference, broken down into accessible parts on our dedicated conference webpage, the page also includes speaker biographies, all the materials from the day, including the full range of posters submitted to our competition.<br><br>Preliminary feedback from delegates has been extremely positive. We received 56 evaluation forms and 98% of delegates said they would |

| | |
|---|---|
| | recommend the conference to a colleague. The average overall score for the conference was 4.5/5.<br><br>A key aim of the conference and wider campaign was to increase the uptake of a broad range of resources available to members and other stakeholders. This is still under evaluation but early feedback highlighted that delegates would be taking away the importance of the EN Scheme and its associated learning resources from this event and sharing this learning in their local trusts/organisations.<br><br>International Indemnifiers meeting ***Maternity clinical negligence indemnifiers: sharing best practice in learning and preventing maternity harm***<br><br>NHS Resolution held an international Indemnifier meeting to share current experiences and innovation in maternity safety and managing claims on the evening of our maternity conference. Improving maternity safety is complex but we consider that Indemnifiers have an important role as system integrators to facilitate safe care in maternity.<br><br>We were delighted to hear experiences and innovations in maternity care from representatives from indemnifiers from across the UK, Ireland, Sweden and Australia. The hybrid event was hosted by Clyde & Co in London and also attended by members of NHS Resolution's Board, the Department of Health and Social Care and the medical defence organisations.<br><br>Other work within the campaign:<br><br>Our maternity campaign started with the launch of our *Early Notification (EN) Scheme second progress report* and an associated webinar. Delegates that attended the webinar rated their knowledge of the aims of the EN scheme as 4.4/5. This was a 22% increase compared to their understanding prior to attending. |

## Digital Events and Training Project Update

Project status is now back at green, due to resolution of supplier resource issues at HEE and the reduction to the project budget. Project plan now received from HEE detailing key deliverables and milestone dates for the introduction, case story 1, 2 and 3 sessions. First iteration of the Introduction session build is now available for review. Case story 2 story session content plan to be finalised following neonatal SME review. Introductory session build out on track for review with the wider project team and external stakeholders.

## Resolution Matters

Our latest edition of *Resolution Matters* was published on 2 December and featured the following content:

1. NHSR Maternity conference
2. Early Notification case stories relaunch
3. Learning from extravasation claims
4. New Insights publication: HPANs
5. World Diabetes Day
6. Duty of candour forum
7. Case of note
8. Fact sheet 5 - 2021/22 now live
9. Annual report statistics and supplementary annual statistics available now
10. Speak-Up month: Being a force for positive change
11. NHS Resolution jobs
12. Contribution notices - reminder
13. News from our system partners

### Claims related

In October we published three publications containing data relating to NHS Resolution claims: the Annual Report Statistics, the Supplementary Annual Statistics and Factsheet 5.

In response to recurring queries coming through the GPI helpline and inbox, two GPI flowcharts and an animation outlining when to report claims to NHS Resolution or a medical defence organisation have been created. We expect to have these on the website before Christmas.

The next panel conference will be held at Kennedys London office on 14 March 2023. This event will have a claims focus.

### Safety and Learning related

Learning from extravasation claims

We have now published another information leaflet in our Did You Know? series centred on learnings from medication errors. This latest leaflet is focused on learnings from extravasation claims.

### Practitioner Performance Advice related

Advice Insights papers

On 30 November we published the latest of the Advice Insights papers: *Healthcare Professional Alert Notices (HPANs): insights from nine years of managing the scheme* which explains what an HPAN is, why they are issued and their importance in ensuring patient, staff and public safety.

This publication is primarily aimed at medical directors, senior clinical managers, HR professionals and professional regulators.

As of 7 December, one week after publication, the HPANs Insights webpage had 167 unique page views. This is an increase in unique page views at the one week review point compared to the previous Behavioural Assessments (133) and Practitioner Characteristics (80) Insights papers.

## Primary Care Appeals related

Primary Care Appeals Updates – monthly email promotion

Commencing on 11 October, we ran a 4-week promotion in support of the monthly email *Primary Care Appeals Updates*, which we launched in early July this year. The promotion was centred around social media posts and content placed in stakeholder bulletins and newsletters. At the end of the promotion we had more than doubled subscription rates, with a 125% increase in subscriptions.

## Digital Communications

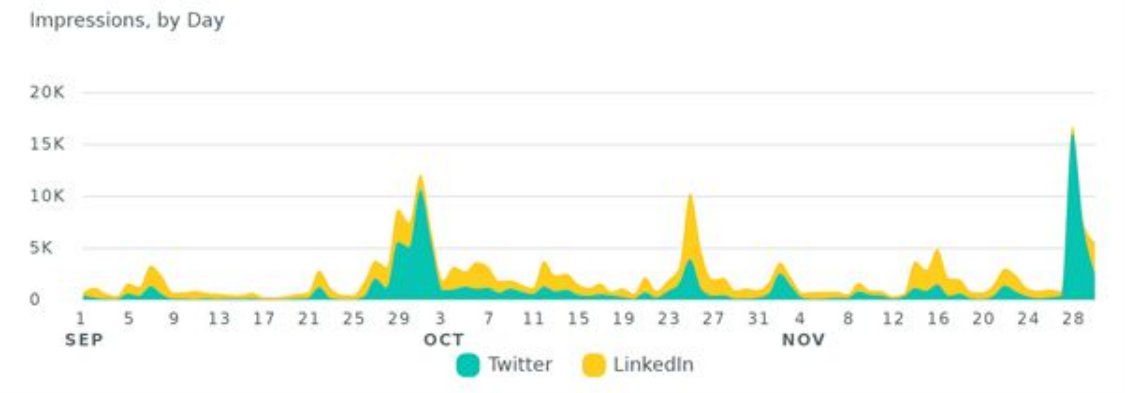
### Social media

September to November 2022 saw both our social media channels perform very well, with an overall period on period increase of post impressions of almost 100%. The launch of the Early Notification second report in September generated a lot of activity and the 'Collaborate to improve maternity care' conference in late November continued to bolster our popularity.

In total, our posts earned over 206,000 impressions throughout this period. As usual LinkedIn proved to be more active than Twitter but only by a small margin. Live-tweeting from our maternity conference resulted in a much higher volume of posts on Twitter, with the account seeing engagements increase by 66% period on period.

The period on period 97% increase in post impressions was helped by our involvment in a number of campaigns including World Patient Safety Day and World Diabetes Day, both of which were great opportunities to promote some of our related work.

| Impression Metrics | Totals | % Change |
|---|---|---|
| **Total Impressions** | **206,056** | ↗ 97% |
| Twitter Impressions | 102,200 | ↗ 104.1% |
| LinkedIn Impressions | 104,346 | ↗ 83.7% |




## External events and conferences

On 22 November, Helen spoke about our NHS Resolution Corporate Strategy 2022-2025 at the Westminster Health Forum: *Next steps for clinical negligence in the NHS*. Her talk was entitled *'Advise, resolve and learn' – NHS Resolution's strategy to 2025'*.

## Internal communications

Annual staff appreciation event

We delivered our virtual staff appreciation event on 9 December 2022 via MS Teams Live as an opportunity to reflect and celebrate our achievements over the past year. We had very good attendance with over 260 attendees across the three-part programme and initial feedback has been positive.

Helen Vernon spoke about the breadth of achievements from across the organisation and our focus for 2023/24. Sally Cheshire shared her insights with us about her role as our Chair and Denise Chaffer gave an inspiring presentation about her journey into female leadership. We also heard from our staff networks sharing their achievements and aspirations, and our Dementia UK representative talked about the work of the charity and how our fundraising is helping them and the families they support.  Over £2,300 has been raised so far with further donations coming in.

NHS Resolution Intranet - Connect

Organic and direct traffic to Connect has been steady over the past few months. A number of new sites and pages were published including, Our Board, Our Senior Management Team, Our People Strategy, ISO27001, Staff Sustainability Network, Pay and Pensions and more. The Health and Wellbeing pages continue to be refreshed to expand the information and resources available to staff.  We continue to have a steady increase of new users each month with September through to November seeing an increase of 78 new users.

# Board meeting – Part 1

18 January 2023

| | |
|---|---|
| Agenda item: | Item 5.1 |
| Title of paper: | Case of Note |
| Responsible Director/Lead: | John Mead |

## Summary of paper:

Report on a judgment involving liability for contraction of mesothelioma.

## Board action requested:

For noting and, if desired, discussion.

## Potential risks/Risk Appetite:

NHS Resolution has an “Open” appetite in respect of taking appropriate cases to trial.

## Equality, diversity & inclusion:

Not directly applicable.

## Has the patient and public interest been taken into account?

It is in the interests of patients generally, and in those of the public, that NHS Resolution challenges claims where it believes no legal liability exists.

**Board Report - Part 1**

**NHS Employee exposed to asbestos dust: White (deceased) v. Secretary of State for Health and Social Care (High Court, 2 December 2022 – Jeremy Hyam KC)**

Introduction

Mr. White, who was born in 1932, was diagnosed with mesothelioma in September 2019 and died from that condition in April 2020, aged 87. It was alleged that his death was caused or materially contributed to by wrongful exposure to asbestos dust whilst working as a junior laboratory technician at Sefton General Hospital in Liverpool between 1949 and 1960, and then between 1973 and 1992 when he was a senior biochemist there. In the intervening period he had worked elsewhere, also as a biochemist. The Secretary of State had inherited relevant liabilities from the body responsible for this hospital during the years in question.

Details

Before he died, Mr. White made a statement in which he said that mats or boards in the laboratory, upon which Bunsen burners were placed, were made of asbestos and their edges readily broke up, causing dust to emerge. He maintained that benches would be covered in asbestos dust and that there was a "constant flow of asbestos dust and fibres from the boards into the environment".

Both parties were given leave to adduce expert evidence from an occupational hygienist, but only the Defendant did so. His report concluded that although the mats were likely to have emitted asbestos dust into the air in the locality where Mr. White was working, such emissions were intermittent and probably at very low levels. During the second period of employment the deceased's duties were different and he was not constantly in the laboratory in question.

The expert added that during the 1950s and early 1960s, the prevailing view was that occasional and relatively low-level exposure to asbestos dust, even in industrial processes, was not thought to be hazardous and would not have warranted precautions. In 1965 an academic paper established the link between asbestos and mesothelioma. In 1967 the government issued a memorandum warning about the dangers of mesothelioma and advised that hard asbestos mats should be used in preference to soft, friable ones. In 1976 the Advisory Committee on Asbestos issued recommendations for the reduction of exposure and substitution of other materials where reasonably practicable. In the same year the Department of Education and Science stated that soft asbestos mats should not be used in science lessons or elsewhere.

NHS Resolution

Decision

During his first period of employment, Mr. White was exposed to very low levels of asbestos. The hospital should have sought advice on what precautions to take (there was no evidence that they had done so). However, during this time there was no foreseeable or understandable risk that Mr. White would develop mesothelioma from exposure to asbestos. Although it was impossible accurately to assess the exact level of exposure so many years later, this was likely to have been very low indeed. It would have been for no more than a few minutes per day. During the second period, the degree of exposure was even lower.

Accordingly, whilst the medical experts had accepted that Mr. White's death was attributable to occupational exposure to asbestos, this exposure was light and intermittent, and never more than modest or infrequent. At no point was exposure at such a level that the employers should have taken precautions. The employers could not reasonably have been expected to have known that asbestos dust in the minimal quantities to which their employee was likely to have been exposed was a risk against which they should have guarded by taking reasonable steps. Consequently, judgment was entered in favour of the Secretary of State.

Comment

This case illustrates some of the problems of both bringing and defending claims of this kind. The most recent potential exposure was in 1992, 28 years before Mr. White's death, whereas the earliest possible exposure was 73 years ago. In that time witnesses will have died and records lost. Further, knowledge of the link between asbestos dust and particular diseases has increased in stages over many years. As early as 1938, such dust in manufacturing industry was recognised as highly dangerous, but knowledge that very low levels of exposure elsewhere might also cause disease came many decades later. In this case, the judge concluded that it was not reasonably foreseeable to the employers that modest exposure in a hospital laboratory was a risk against which reasonable precautions should have been taken at the relevant time. That does not take away the tragedy of the case, because mesothelioma is an extremely painful and invariably fatal condition.

# Board meeting – Part 1

Wednesday 18 January 2023

| | |
|---|---|
| Agenda item: | Item 6.1 |
| Title of paper: | Strategic Activity Overview |
| Responsible Director/Lead: | Chief Executive and SMT leads |

## Summary of paper:

The report provides background information and the current status on the main NHS Resolution programmes.

The main programmes are:-

1. Core Systems Programme (CSP)
2. Claims Evolution Programme (CEP)

## Board action requested:

The Board is asked to **note** the report.

## Potential risks:

Our performance is detailed in public documents such as the Business Plan and our Annual Report and Accounts as well as reported on a regular basis to the Department of Health. Any failure to perform against agreed targets or to have plans in place to remedy under performance would bring into question our effectiveness in delivering the aims of our Business Plan.

## Equality, diversity & inclusion:

We review all the proposed measures of performance against our standards in this area when agreeing definition of thresholds with the Department of Health and Social Care at the outset of the financial year.

## Has the patient and public interest been taken into account?

All performance measures are focused ultimately on the interests of patients and the public be that in relation to patient safety or preserving resources for NHS care.

# Part 1 performance report – strategic activity overview

Wednesday 18 January 2023

This report covers NHS Resolution's main, strategic change programmes as of 15/12/22.

## Core Systems Programme (CSP)

About CSP

As the biggest and most ambitious digital transformation NHS Resolution has ever undertaken, the Core Systems Programme (CSP) is the key to unlocking the power of the vast pool of data the organisation holds.

Through replacing our multiple existing Case Management Systems, with one innovative yet practical cloud-based solution, while continuing to deliver our services and support to NHS trusts, we will thoroughly modernise our ways of working, enhancing our capabilities and steering NHS Resolution securely into the future.

The aims of CSP

Through the adoption of a single, frictionless, intelligent and time-proof solution, the CSP will transform the day-to-day experience at NHS Resolution, making a considerable difference in the work that we do to deliver improvements to NHS patients and those who care for them.

Current status of CSP

Overall Programme status remains amber. Significant progress has been made in terms of readiness for the Advice service go-live in 2023, go-live moved back by 1 month to accommodate business readiness activities and key features required to support service operations, however all stakeholders now aligned on revised go-live date of 1st March. Revised draft plan for Claims release with supporting commercials and financial position have been agreed at Programme Board and are pending final completion as part of an update contract with our suppliers (Expected 22nd December). Financials in place to support all team members through to close of FY 2023 to enable delivery of all Claims functionality during the next financial year. We continue to ensure consistency between Claims Evolution Programme and the Core Systems Programme.

## Claims Evolution Programme (CEP)

About CEP

The Claims Evolution Programme (CEP) is a transformation programme across the claims function, which will deliver a new operating model involving a review of our people, processes and technology. The aim is to deliver a single, integrated claims function, providing the best service we can to the NHS. One of the key aims of CEP is to create an organisational structure which is supportive, avoids duplication of effort and allows our teams to develop their skills. In the fullness of time we intend to use that capacity and capability to service more work in house, in turn delivering efficiencies to our members, beneficiaries and the wider system.

Since publication of our last 5 year strategy, our position within the NHS has broadened, with the most significant change being our role in providing indemnity in primary care. This has been a significant shift and a key priority for the CEP is to ensure that our GP Indemnity schemes are fully integrated.

In addition, since we began operating in 1995 the cost of clinical negligence to the NHS has risen enormously. The NHS is also the largest employer in the country and on its behalf we handle the largest portfolio of employers' liability cases in the country. We have a responsibility to do what we can to minimise these costs and making our processes more streamlined and cost effective is an important first step. We want to understand our customers (members and beneficiaries) better so we can meet their needs and help them to learn from claims to avoid future harm occurring.

The aims of CEP

CEP will be organised into three key phases with Phase 1 being the foundation stage working towards an interim operating model (IOM) which will be phase 2. Once we are there, we should be able to see some noticeable, practical improvements in the delivery of our service. More specifically we aim to have:

- Operational teams fully aligned with NHS regions and with each other, providing a quality and consistent service across all of our work within and across the regions, supported by central support functions;
- To ensure the expertise of our staff is used to its maximum potential and tasks completed are done so at the most appropriate level; and
- A legal panel framework which supports our new operating model, which is flexible, easy to use and drives proactivity and efficiency.

Current status of CEP

Overall programme status is green. CEP plan to be aligned to Core Systems Programme (CSP) release schedule and baselined to allow alignment of delivery windows so impacted teams are not overloaded. Resource requirements for CSP releases to be identified so that work can be scheduled alongside requirements for CEP. Operational enhancements from CSP will also be factored into capacity planning so that recruitment for CEP can be scaled appropriately. Co-Design and recruitment for active workstreams is ongoing.

Claims Support Service (CSS) to launch in January with defined task shifting of two scoped tasks. Further tasks to be scoped. Insourcing team recruitment commenced.

NHS Resolution

# Board meeting

January 2023

| | |
|---|---|
| Agenda item: | Item 7.1 |
| Title of paper: | Remuneration and Terms of Service Committee Performance and Compliance Report for 2021. |
| Responsible Director/Lead: | Sally Cheshire, Chair/Michael Humphris, Deputy Director of HR and OD |

## Summary of paper:

(Brief introduction to the key points)

This paper provides information on the performance and compliance of the Remuneration and Terms of Service Committee as set out under section 9 of the committee's terms of reference.

The Committee also considers that the ToR remain appropriate and fit for purpose.

## Board action requested:

(Insert clear action i.e. whether Board are asked to agree, note, discuss)

2022 Performance and Compliance Report - to note

Remuneration Committee Terms of Reference – to approve

## Potential risks:

(Detail risks and alignment with Strategic Risk Register reference)

There are no specific risks associated with the performance and compliance report; in fact the report sets out to confirm that the committee's performance and compliance in 2022 has been conducted appropriately and as required by the committee's terms of reference. Ensuring compliance reduces the chance of any potential areas of risk.

(Detail how the proposal sits with NHS Resolution's risk appetite)

The Board are asked to consider whether the assurances provided in this report are adequate in relation to boards risk appetite statement, specifically in relation to Governance and Compliance (Low).

## Equality, diversity & inclusion:

(Evidence how this is addressed in the paper)

The terms of reference for the committee and its monitored performance against the terms of reference ensures that the committee discharges its responsibilities fairly and in accordance with relevant national agreements and legislation.

## Has the patient and public interest been taken into account?

(Scope and how feedback was incorporated/actioned)

The purpose of the committee is to ensure there is appropriate oversight of the Executive and Senior Managers (ESM) performance and associated remuneration. The committee is also responsible for ensuring that appropriate succession plans are in place for all ESM positions. Ultimately an organisation which is led by a high performing executive team, will deliver the best possible service to our members, and subsequently the patients and public that they serve.

# Remuneration and Terms of Service Committee

*Performance and Compliance Report*

**January 2023**

## 1. Introduction

In accordance with section 9 of the Remuneration and Terms of Service Committee Terms of Reference (ToR), this report provides the information on the performance of the committee covering the period January 2022 – December 2022 including its compliance against the ToR.

## 2. Performance

The 2021 performance and compliance report was approved by the committee prior to the departure of the former Chair in January 2022. The Committee met as scheduled in March and July 2022. The committee also held 2 meetings in October 2022. The first of these was to deal with a deferred item due to delayed receipt of the ESM pay guidance from DHSC and the second, to consider a business case which had been delayed due to staff absence. All meetings were quorate.

The attendance of the committee members throughout the year was as follows:

| Name | Meetings Attended |
|---|---|
| Sally Cheshire (commenced as Chair in September 2022) | 2 of 2 |
| Mike Pinkerton (interim Chair until September 2022) | 3 of 4 |
| Charlotte Moar | 3 of 4 |
| Nigel Trout | 4 of 4 |
| Janice Barber | 4 of 4 |
| Lesley Regan | 3 of 4 |

In March 2022 the committee noted the established appointments process in relation to the Associate Non-executive Director positions, and retrospectively agreed the extensions of 2 existing appointments.

In July 2022 the committee considered and noted the annual Directors' performance reviews and objectives setting as presented by the Chief Executive who was in attendance. In addition, the committee received a verbal update from the CEO on work underway to review the structure, roles and responsibilities of the senior management team. The committee also noted the performance and objectives of the Chief Executive as provided by the Chair of the committee.

In October, the 2022/23 annual pay award and performance related payments were determined by the Committee based on guidance provided by the Department of Health and Social Care (DHSC) and approved.

Other matters dealt with by the Committee during the year included:

- NED feedback on ESM performance
- Business case approval for a retire and return request for a Director, including consideration of succession planning for the role.

## 3. Compliance

The Committee considered its performance in 2022 as satisfactory and concluded that it had discharged its obligations as noted in the ToR.

The Committee also considers that the ToR remain appropriate and fit for purpose.

The Board is asked to note this report.

Sally Cheshire
**Chair**

# REMUNERATION AND TERMS OF SERVICE COMMITTEE

## TERMS OF REFERENCE

## JANUARY 202~~2~~3

### CONSTITUTION

1 The Board has established a Committee to be known as the Remuneration and Terms of Service Committee (the Committee). The Committee is a non-executive committee of NHS Resolution's Board, which determines its terms of reference.

### MEMBERSHIP

2 The Committee is appointed by the Board of NHS Resolution and consists of all the non-executive members (excluding the Associate Non-executive Directors). The Committee is chaired by the Chair of NHS Resolution or such other non-executive as the Chair may nominate from time to time. Committee meetings require a quorum of at least three members, including the chair of the meeting. Details of the membership are to be given in the Annual Report.

3 The Committee is supported by a Secretary to be appointed by the Chair.

### ATTENDANCE

4 The Chief Executive will attend meetings as required to present his/her reports on the performance of the Executive and senior managers, but will not be present for discussions about their own remuneration. Other senior managers may be invited to attend for the discussion of specific items not related to their own positions.

5 The ~~Head~~ Deputy Director of Human Resources and Organisational Development will be available to advise the Chair and the Committee if required and will attend meetings at the request of the Chair.

### FREQUENCY

6 Meetings shall be held as required but at least twice a year. Committee members or the Chief Executive may request a meeting at any time should they consider it to be necessary.

### AUTHORITY

7 Subject to any restrictions set out in relevant legislation, the Committee is authorised by the Board to determine any matter within its terms of reference. The Committee will take proper account of national agreements e.g. Agenda for Change and guidance issued by the Department of Health and Social Care and the NHS on the pay for executive and senior managers in reaching its decisions. The Committee will also have proper regard to the Authority's circumstances and performance. The Committee may seek such information or independent advice as may be necessary to inform its decisions.

**TERMS OF REFERENCE**

8 The Committee will:

(i) Determine the remuneration, benefits and terms of service of all posts covered by the Executive and Senior Managers' (ESM) pay framework in line with that Framework.

(ii) If required seek and obtain approval from the Department of Health and Social Care for any changes to remuneration in line with the arrangements in the ESM pay framework.

(iii) Review and approve as required proposals by the Chief Executive for the recruitment or appointment of staff at the ESM level.

(iv) Ensure that effective systems are in place and are being properly administered to monitor and evaluate the performance of those covered by the ESM pay framework, including such assessments as may be required to determine the level of remuneration, including any bonus payments in line with the ESM pay framework.

(v) Oversee contractual arrangements for employees covered by the ESM pay framework, including the calculation and scrutiny of termination payments, ensuring that such payments are appropriate, reflect best practice and take account of both national guidance and Department of Health and Social Care and Treasury approval requirements.

(vi) Take responsibility for identifying and, together with the Chief Executive, approving candidates to fill executive Board vacancies as and when they arise.

(vii) Agree the appointment and renewal of any Associate Non-Executive Director posts, including where appropriate the associated remuneration and terms of appointment.

(viii) Satisfy itself with regard to the effectiveness of the plans and processes that are in place for succession planning for senior positions, ensuring that these arrangements are supplemented by appropriate management development programmes.

(ix) Consider requests in principle for payments to any employee which require the approval of the Department of Health and Social Care's Governance and Audit Committee, including redundancy payments with a capitalised value of £100,000 or more, payments in lieu of notice of £50,000 or more and ex gratia payments of £20,000 or more.

## REPORTING

9 The Chair will submit a report on the Committee's activities for information to a public meeting of the Board at least once a year and ensure the Board is informed on a timely basis of relevant decisions.

10 Copies of the minutes will be made available to the auditors as required.

## REVIEW

11 The Committee will review its performance annually including its compliance with these terms of reference, the results of which will be reported to the Board. If considered appropriate the Committee will recommend changes to these terms of reference for approval by the Board.

# REMUNERATION AND TERMS OF SERVICE COMMITTEE

## TERMS OF REFERENCE

## JANUARY 2023

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