

# **Claims Management beneficiary charter**

## **General Practice Indemnity**

## Working with you to resolve concerns fairly, share learning for improvement and preserve resources for patient care.

Our aim is to resolve any claim for compensation brought against you in relation to clinical care provided under the NHS as fairly and as quickly as possible. In all cases, we will do all that we can to keep patients and healthcare staff out of formal processes to minimise distress and cost.

This charter summarises the interactions between NHS Resolution, scheme beneficiaries and legal panel firms, along with our respective obligations under the scheme rules. This will lead to a more streamlined claims management process and hopefully less uncertainty, avoiding complaints and discontent. Your input is crucial to the outcome of claims so we will work hand in hand with you from start to finish.

We also have a duty to use what we know to help to improve healthcare and benefit patients.

This charter should be read alongside our scheme rules and supporting guidance:

[Clinical Negligence Scheme for General Practice \(CNSGP\) and Existing Liabilities Scheme for General Practice \(ELSGP\)](#)

[Clinical Negligence Scheme for Trusts \(CNST\)](#)

[Clinical Negligence Scheme for Coronavirus \(CNSC\)](#)

This charter also sets out our approach to the management of cases involving multiple defendants who benefit from indemnity under any of the indemnity schemes operated by NHS Resolution including the CNST.

### What you can expect from us:

<b>Professional:</b>	We will respond to your queries in a courteous, timely and professional manner
<b>Expert:</b>	We have over 25 years' experience and expertise of managing negligence claims on behalf of the NHS
<b>Ethical:</b>	We will resolve concerns fairly. Where our views differ to yours we will explain why
<b>Respectful:</b>	We strive to ensure a sympathetic tone and personalised approach and tone is taken with all cases, putting ourselves in the shoes of the injured person

## Our commitment to you

### Advise

**To give you confidence in our decision making, we will explain our reasoning, listen and respect the opinions of you and your staff. We will:**

- Lead you through the claims process
- Provide guidance on claims and incidents that need to be reported
- Never withhold cover because an apology or explanation has been given<sup>1</sup>
- Provide you with advice on cover and indemnity under our schemes. If your claim does not fall within scope of the scheme, beneficiaries are advised to consult their public liability insurers and/or medical defence organisation (MDO)
- Ensure there is no excess and no limit of indemnity under CNSGP and ELSGP
- Let you know clearly which documentation and information we need from you to manage your claims
- Analyse expert evidence on liability and where admissions are needed, we will provide you with our recommendations
- Negotiate the value of damages with the claimant or their representative and advise when the claim has resolved
- Jointly manage cases involving multiple members and beneficiaries of our indemnity schemes, to reduce the overall cost of the claim while ensuring all our members and beneficiaries are equally supported. We will manage apportionment behind the scenes to ensure a fair and timely resolution
- Ensure you are appropriately represented at any mediations, resolution meetings and conferences with counsel, supporting you every step of the way
- Support you with high profile cases<sup>2</sup>
- Ensure you have the opportunity to provide feedback at any time throughout the claims handling process

### Resolve

**We resolve meritorious claims and resist unjustified claims fairly and efficiently. We will:**

- Not make any admissions of liability<sup>3</sup> without your express authority to do so
- Share denials on liability with you

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<sup>1</sup> For guidance please see ['Saying Sorry'](#) or speak to your NHS Resolution operational team leader.

<sup>2</sup> E.g. cases with MP involvement, press enquiries, group actions or which are novel, contentious or repercussive

<sup>3</sup> Breach of duty and / or causation

- Meet our obligations by:
  - Nominating lawyers to act on your behalf and where appropriate instruct our lawyers to accept proceedings
  - Appointing medical experts, counsel and other specialists, as appropriate
  - Serving repudiations of liability where we consider these to be supported by the evidence
  - Considering the most appropriate route of dispute resolution where possible including:
    - Part 36 offers
    - Stocktake meetings
    - Joint settlement meetings
    - Early neutral evaluations
    - Resolution meetings
    - Mediations
    - Handler to handler resolution discussions
  - Extending limitation where appropriate to encourage the claim to be dealt with outside of court proceedings
  - Making damages payments we determine are appropriate to bring the case to a fair resolution
  - Dealing with any apportionment issues fairly and efficiently, ensuring these do not delay the resolution of a claim
- Keep you informed about key developments

## **Learn**

**We value your feedback so if you have a compliment or a complaint we would like to hear from you. In addition, we will:**

- Undertake periodic customer satisfaction surveys to develop our service and better understand your needs; and
- Arrange events to keep you up to date with what we are doing and any changes that might affect you
- Strive to build stronger relationships with you by providing regionally tailored services, enabling us to develop a deeper knowledge of the specific challenges each region faces

Using the absolute discretion afforded to us by the scheme rules, we will work in the best interests of the NHS and strive to achieve the highest standards of case management, leading to the fair resolution of claims.

## Management of cases involving multiple members and beneficiaries of NHS Resolution indemnity schemes

We will conduct joint investigations into allegations made by the patient about their NHS care on behalf of members and beneficiaries involved in the case that we indemnify. We will ensure:

- You are informed at the earliest opportunity whether your case involves other members and beneficiaries indemnified by us and if joint investigations will be undertaken
- You are given the opportunity to share any concerns you may have with your case handler/appointed legal panel
- Investigations are conducted in an open and transparent manner and the outcome of these shared with you
- Apportionment is resolved fairly and decisions are evidence-based

### How you can help us

So that we can provide you with the best service and to help us control claims costs please make sure that you:

- Are familiar with and understand your responsibilities under our scheme rules
- Ensure you and your sub-contractors comply with all applicable laws and regulations relating to the processing of personal data and confidentiality
- Identify and, where appropriate, report potential claims to us as early as possible in line with our [reporting guidelines](#)
- Provide us, within 24 hours of receipt, with copies of letters of claim, part 36 offers, proceedings, court notices and other documents including any covering correspondence with set response deadlines so that we can protect your position
- Provide us with the details of the MDOs of each GP, pharmacist and/or advanced clinical practitioner against whom a claim is being made
- Provide us with the GP partner name, GMC number and MDO information along with Group Scheme Policy details if in place, if a claim is being brought against the Practice
- Ensure the factual accuracy of all approved documents
- Provide us, or our lawyers, with copies of all relevant documents and information, in the timelines set within the reporting guidelines, wherever possible at the point of notification or as soon as reasonably practicable, including but not limited to:
  - Medical records including imaging
  - Complaint files
  - Details of key staff involved
  - Relevant protocols and policies
  - Incident reports
  - Significant event analysis
- Provide us with factual accounts from key staff involved in the episode of care

- Support us and our lawyers to obtain evidence from you and/or your staff throughout the life of a case including attendance at court hearings, conferences with counsel and dispute resolution meetings
- Keep members of staff, who are involved in a claim and are indemnified by NHS Resolution, updated on the progress of the claim and its outcome
- Preserve the necessary notes, records and other key documentation
- Respond as soon as possible or within the time frame we specify to requests from us and our lawyers for input and instructions, particularly where we are required to serve Letters of Response and Defences containing admissions; timely responses will avoid unnecessary legal fees and assist in achieving early resolution of a claim
- Understand that we will be guided by independent expert evidence on the way your claims should be managed and that:
  - We will instruct appropriate independent experts, taking into account the facts of the case and the expertise needed; second opinions will not ordinarily be sought
  - Supportive evidence must be in place in order to defend a claim to trial
- Provide apologies as soon as possible to patients who have suffered harm because of unreasonable care and in other situations in which it is appropriate to do so in line with your statutory duty of candour<sup>4</sup>
- Ensure any learning from your claims is shared and acted upon across your Primary Care Networks and any relevant team(s)<sup>5</sup>
- Contact us in the event that any issues arise which are relevant to the management of your claims

If you wish to defend a case to trial in the face of unsupportive expert evidence, against our express advice and that of our appointed solicitors and counsel, you may have to do so at your own expense, with all of the subsequent costs of the claim not being met by our schemes. More information is available within the scheme rules.

## Governance

In processing personal information, we will collect only the appropriate amount of personal information required for us to fulfil the statutory functions effectively and will not keep personal information for longer than is necessary. We will share personal information with third parties only where this is appropriate and it is lawful to do so.

Please see our [privacy notice](#) for details on how we collect, use and, where applicable, share personal information.

For any questions or queries about how we handle data, please contact the Data Protection Officer for NHS Resolution at:

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<sup>4</sup> For guidance please see [Duty of Candour animation - NHS Resolution](#)

<sup>5</sup> Our Safety and Learning team are available to provide support as required

Email: [nhsr.information.governance@nhs.net](mailto:nhsr.information.governance@nhs.net)

Telephone: 0207 811 2806

## If something goes wrong

We will deal with any concerns and complaints thoroughly, promptly and candidly in accordance with our scheme rules and [complaints policy](#).

If you disagree with our view about the management of a claim, this should be discussed with the relevant case handler at NHS Resolution in the first instance. If necessary there is a right of appeal to the relevant operational team leader and then to the Director of Claims Management or the Technical Claims Director. We are confident that most, if not all complaints will resolve by this point. In the exceptional situation of continued disagreement, the matter will be referred to the Chief Executive and/or referred to Mediation.

To make a comment or complaint about our services, please contact: [nhsr.claimsmanagementcomplaints@nhs.net](mailto:nhsr.claimsmanagementcomplaints@nhs.net)

## How to contact us

If you have any concerns regarding whether a claim falls within one of the two general practice state indemnity schemes or whether a matter should be reported, please contact NHS Resolution:

- By email on:
  - [nhsr.cnsqpnnotification@nhs.net](mailto:nhsr.cnsqpnnotification@nhs.net) if your enquiry relates to an incident after 1 April 2019
  - [nhsr.elsqpnnotifications@nhs.net](mailto:nhsr.elsqpnnotifications@nhs.net) if your enquiry relates to an incident before 1 April 2019 and you were a MDDUS or MPS member at the time of the incident

Please set out the basis of your enquiry and we will either respond by email or telephone to discuss the issue further.

**Do not send any other documents via unsecure email and ensure you do not include any patient sensitive data in your email.**

- By telephone via our Claims Helpline: 0800 030 6798 at any time; 24 hours a day, 365 day a year to speak to a legal advisor about any clinical negligence claims covered by the general practice indemnity schemes. Please remember that any other medico-legal matters should be handled by your MDO (or any other provider).

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