

Claims Management membership charter

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

This membership charter summarises the interactions between NHS Resolution, scheme members and legal panel firms, along with our respective obligations under the scheme rules. This will lead to a streamlined claims management process and hopefully less uncertainty which can lead to complaints and discontent. The charter was co-designed by our members, our legal panel and our claims handlers and therefore represents what we consider to be a balanced approach for all participants in the claims handling process.

Our primary focus is to resolve concerns fairly. We also have a duty to use what we know to help to prevent the same thing happening again.

This charter outlines respective roles and responsibilities and should be read alongside our scheme rules and supporting guidance:

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

[Liabilities to Third Parties Scheme \(LTPS\)](#)

[Property Expenses Scheme \(PES\)](#)

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

This membership 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 Clinical Negligence Scheme for General Practice (CNSGP) and the Existing Liabilities Scheme for General Practice (ELSGP).

What you can expect from us:

Professional:	We will respond to your queries in a courteous, timely and professional manner
Expert:	We have over 25 years' experience and expertise of managing negligence claims on behalf of the NHS
Ethical:	We will resolve concerns fairly. Where our views differ to yours we will explain why
Respectful:	We strive to ensure a sympathetic tone and personalised approach 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 given¹
- Provide you with advice on cover and indemnity under our schemes
- Let you know clearly which documentation and information we need from you to manage your claims
- Analyse 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 we will advise you of the final damages amount once resolved
- Support you with high profile cases²
- Jointly manage cases involving multiple members and beneficiaries of our indemnity schemes to reduce the overall cost of the claim while ensuring all members and beneficiaries are equally supported. We will manage apportionment behind the scenes to ensure a fair and timely resolution.

Resolve

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

- Not make any admissions of liability³ without your express authority to do so;
- Meet our obligations by:
 - Nominating lawyers to act on your behalf and, where appropriate, instruct our lawyers to accept proceedings via the HMCTS damages claims portal on your behalf
 - Appointing medical experts, counsel and other specialists, as appropriate
 - Serving repudiations of liability where we consider these to be supported by the evidence
 - Serving evidence at an earlier stage where the opportunity to avoid litigation arises. Should the evidence include admissions, it will be served where the admission has previously been authorised by you.

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

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

³ Breach of duty and / or causation

- Considering the most appropriate route of dispute resolution where possible including:
 - Part 36 offers
 - Stocktake meetings
 - Joint settlement meetings (JSM)
 - Early neutral evaluations
 - Resolution meetings
 - Mediations
 - Handler to handler resolution discussions
- Extending limitation where appropriate to avoid unnecessary litigation
- 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 member 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

The commitment we need from you

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, including those meeting the Early Notification criteria, to us as early as possible in line with our [claims 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, or our lawyers, with copies of all relevant documents and information in the timelines set within the [claims reporting guidelines](#), wherever possible at the point of notification or as soon as reasonably practicable, including but not limited to:
 - Medical records including imaging
 - Incident reports
 - Details of key staff involved
 - Complaint files
 - Relevant protocols and policies
 - Standard disclosure (non-clinical) e.g. training records, risk assessments, witness statements
- Provide us with factual accounts from key staff involved in the episode of care
- Ensure the factual accuracy of all approved documents
- Support us and our lawyers to obtain evidence from you and your staff throughout the life of a case including attendance at court hearings, conferences with counsel and resolution meetings
- Where members of staff are involved in a claim, keep them 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 claim⁴
- 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

⁴ Timely responses under the Early Notification scheme will assist in early resolution of potential complaints/claims sought

- Supportive evidence must be in place in order to defend a claim to trial
- Provide support for dispute resolution meetings, such as mediation and JSMs by enabling your senior representatives to attend and engage in the process
- Provide support for Early Notification summits, member engagement and support with family communications by providing senior representation and timely approval of outcome letters
- 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 candour⁵
- Ensure any learning from your claims are shared and acted upon by the relevant team(s)⁶
- 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 our Data Protection Officer:

Email: 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

⁵ For guidance please see [Duty of candour animation - NHS Resolution](#)

⁶ Our Safety and Learning team are able to support you as required – contact details are provided below

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

Contacts

If you wish to contact us or seek support, please contact:

Claims Management team: nhsr.claimsenquiries@nhs.net or the Operational Team Leader for your region

Membership and Stakeholder Engagement team: nhsr.communications@nhs.net

Safety and Learning: nhsr.safety@nhs.net

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