

# Factsheet 2: Financial information 2016 -17

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## Introduction

This factsheet provides information about the number and type of claims handled by NHS Resolution, a not-for-profit arm's length body of the Department of Health, responsible for handling both clinical and non-clinical negligence cases on behalf of NHS organisations and independent providers of NHS care in England. Information about other aspects of NHS Resolution's activities is contained in further factsheets in this series, available on our website at [www.resolution.nhs.uk](http://www.resolution.nhs.uk). Our recent Annual Reports are also available on our website.

## The schemes managed by NHS Resolution:

1. Indemnifies providers of NHS care in England:
  - NHS and NHS Foundation Trusts.
  - CCGs (since 1 April 2013).
  - Independent sector providers of NHS care (since 1 April 2013).
2. Operates clinical and non-clinical risk indemnity pooling schemes which NHS organisations join, on a voluntary basis, as scheme members.
3. NHS Resolution's approach to pricing is to financially reward those organisations which have fewer less costly claims, thereby incentivising the reduction of harm and supporting better staff and patient safety.
4. The indemnity schemes are:
  - a) **Clinical Negligence Scheme for Trusts (CNST)** - for clinical (patient) claims arising from incidents since 1995.
    - CNST cover is unlimited and the NHS Resolution funds the total cost of claims.
    - Since April 2013 independent sector providers of NHS healthcare have been entitled to join CNST in their own right.
  - b) **Risk Pooling Schemes for Trusts (RPST)** - operating since 1999:
    - i. Property Expenses Scheme (PES) - for non-clinical claims including 'first party' losses such as property damage and theft where the incident occurred on or after 1 April 1999.
    - ii. Liabilities to Third Parties Scheme (LTPS) - for non-clinical claims such as public and employers' liability claims.
      - Cover is unlimited in value, however some areas of cover are subject to an excess for which the member is responsible.

- NHS Resolution funds the cost of claims above the excess.
  - Since April 2014 any previous claims resolved and closed below the excess, or any new claims below the excess, are handled by NHS Resolution free of charge.
- c) **Existing Liabilities Scheme (ELS)** - is centrally funded by the Department of Health and covers clinical claims against NHS organisations where the incident took place before 1 April 1995.
- d) **Ex-RHA Scheme (Ex-RHAS)** - is a relatively small scheme covering clinical claims made against the former Regional Health Authorities which were abolished in 1996. This is centrally funded by the Department of Health.
- e) **Industrial disease claims** arising from activities in the NHS on behalf of the Department of Health.

## Outstanding liabilities

As at 31 March 2017, NHS Resolution estimates that it has potential liabilities of £65.0 billion, of which £64.7 billion relate to clinical negligence claims (the remainder being liabilities under PES, LTPS and DH Non Clinical). This figure represents the estimated value of all known claims, together with an actuarial estimate of those incurred but not yet reported (IBNR), which are claims which may be brought in the future but have not yet (and may not) be brought and which may settle or be withdrawn over future years.

## Expenditure under each Scheme

In 2016/17, NHS Resolution made payments totalling **£1,764 million** in respect of all schemes. A breakdown of these payments between schemes, together with comparable data for previous years, is given overleaf. **It should be noted that these figures relate only to expenditure incurred by NHS Resolution itself.**

Until April 2000, when all outstanding ELS claims were “called in” to NHS Resolution, NHS organisations handled (and funded) lower value ELS claims themselves, and paid “excesses” on the higher value claims handled on their behalf by NHS Resolution. Similarly, until the call-in of CNST claims in April 2002, member organisations paid part of the cost of claims made under CNST. Excesses are still payable on the non-clinical schemes (LTPS and PES). The cost of these excesses, being carried by individual NHS organisations, is not included in NHS Resolution’s figures.

Payments made by NHS Resolution in respect of negligence claims against the NHS Payments made in the financial years 11/12 to 16/17

	2016/17	2015/16	2014/15	2013/14	2012/13	2011/12
Scheme	£'000	£'000	£'000	£'000	£'000	£'000
CNST	1,575,943	1,378,262	1,044,354	1,051,173	1,117,655	1,095,302
ELS	29,835	26,575	26,638	31,711	140,002	179,112
Ex-RHA	1,164	1,115	1,048	3,419	1,223	2,957
DH Clinical	100,225	82,503	97,547	106,235		
<b>Total</b>	<b>1,707,167</b>	<b>1,488,455</b>	<b>1,169,587</b>	<b>1,192,538</b>	<b>1,258,880</b>	<b>1,277,371</b>
LTPS	43,612	44,592	41,159	40,188	46,949	48,128
PES	8,585	3,632	2,837	3,853	3,650	4,262
DH Non-clinical	5,298	11,146	9,437	7,534		
<b>Total</b>	<b>57,495</b>	<b>59,370</b>	<b>53,433</b>	<b>51,575</b>	<b>50,599</b>	<b>52,390</b>
<b>Grand total</b>	<b>1,764,661</b>	<b>1,547,825</b>	<b>1,223,020</b>	<b>1,244,113</b>	<b>1,309,479</b>	<b>1,329,761</b>

Payments made in the financial years 2005/06 to 2010/11

	2010/11	2009/10	2008/09	2007/08	2006/07	2005/06
Scheme	£'000	£'000	£'000	£'000	£'000	£'000
CNST	729,072	650,973	614,342	456,301	424,351	384,390
ELS	132,700	135,064	150,806	171,562	153,246	168,203
Ex-RHA	1,626	954	4,078	5,462	1,794	7,716
DH Clinical						
<b>Total</b>	<b>863,398</b>	<b>786,991</b>	<b>769,226</b>	<b>633,325</b>	<b>579,391</b>	<b>560,309</b>
LTPS	42,435	33,952	33,975	24,986	29,697	26,692
PES	5,546	6,424	3,914	2,730	4,186	4,586
<b>Total</b>	<b>47,981</b>	<b>40,376</b>	<b>37,889</b>	<b>27,716</b>	<b>33,883</b>	<b>31,278</b>
<b>Grand total</b>	<b>911,379</b>	<b>827,367</b>	<b>807,115</b>	<b>661,041</b>	<b>613,274</b>	<b>591,587</b>

## Legal costs

The following table sets out the amounts paid out by NHS Resolution for legal costs relating to clinical negligence claims closed in 2016/17 with damages paid. The figures are broken down into costs incurred by the NHS and by claimants: however they relate only to costs paid by NHS Resolution and hence do not include costs met by claimants themselves or by the Legal Services Commission.

Legal costs incurred in connection with claims closed in 2016/17			
	Claimant costs	Defence costs	Total
CNST	341,100,750	70,936,322	412,037,072
DH Clinical	12,207,408	3,167,686	15,375,094
ELS	1,261,812	378,096	1,639,908
<b>Grand total</b>	<b>354,569,970</b>	<b>74,482,104</b>	<b>429,052,074</b>