

# General Practice Indemnity podcast: S1 E2 transcript

**Nick Rogers:** In this series of podcasts we're talking about a hot topic for the whole of the health sector, which is the indemnity scheme for general practice. The Clinical Negligence Scheme for General Practice or CNSGP for short. My name is Nick Rogers and I'm a Senior Policy and Strategy Lead at NHS Resolution.

The first podcast focused on why a state indemnity scheme was introduced, what cover is provided under the scheme and how the scheme is funded. In the second podcast we address who people should contact if they have a problem, what people should do if they receive a claim, and how NHS Resolution will share learning and the importance of saying sorry.

Well here to talk to us is Michele Golden, Deputy Director of Safety and Learning at NHS Resolution. Michele is also a Palliative Care Nurse.

So Michele, who should people contact first if they have a problem? Is it NHS Resolution or is it another provider?

**Michele Golden:** Thanks Nick.

That depends really on the period of time to which the claim relates. Individuals must either report the claim to NHS Resolution or their MDO provider, or other indemnity provider, depending on when it happened. So incidents occurring before 1 April 2019 should be reported to your MDO provider or another indemnity provider if that's what you have.

Incidents that have occurred on or after 1 April 2019, report the claim to us at NHS Resolution. And incidents occurring during both periods, or where it's unclear, should be reported to us at NHS Resolution and your MDO or indemnity provider.

Now, there are some cases where we know that the incident occurred before 1 April 2019 and we at NHS Resolution of dealing with those. In those situations it's probably worth giving us a ring to see whether or not we're dealing with it or in your MDO, whichever organisations is dealing with it will get back to you.

**Nick Rogers:** And there's information on the website.

**Michele Golden:** Yeah. Yeah.

**Nick Rogers:** Great. Okay.

So timing really is the key here then, in terms of who you report your claim to and when. So when those working in general practice do receive a claim, what's the first thing they actually need to do?

**Michele Golden:** Well, the very first thing they need to do is say sorry.

Say sorry to the patient and patient's family, that something's happened, that something's gone wrong. And I think it's really important that we make it clear that saying sorry is not an admission of liability. We will never withhold indemnity from a practitioner who has apologised. And in fact, we really encourage it. So that's the first thing they should do.

Once they think there's going to be a claim, practitioners should contact NHS Resolution and irrespective of whether a claim has been brought or it's likely to, it is really important that you're open and transparent with the patient.

That whole apologising at the beginning is of crucial importance. And spend time with them, explain what happened, try and understand why. We've produced some guidance on when and how to report a claim, and that's available on NHS Resolution's website.

**Nick Rogers:** And why is it important to be open and transparent with patients?

**Michele Golden:** We know that adequate and sincere and authentic apologies go a long way to making patients feel a bit better about what's happened and to understand that whoever has caused the harm is genuinely sorry about it. So that's the most important thing.

But also the timescales for notification are to give us at NHS Resolution the best possible opportunity to respond to the claim. Reporting relevant matters to us at our early involvement, and that can potentially avoid a claim or allow for early investigations, which will limit unnecessary delay, which is distressing for everybody and unnecessarily high legal costs.

There's more detailed guidance about what happens and what to do when the claim is brought, and that's available on our NHS Resolution website.

**Nick Rogers:** That all sounds pretty clear, but what do people are still unsure?

- Michele Golden:** I will always say go and look at our website.
- But if your people have concerns about regarding whether a claim falls under the scheme or whether the matter should be reported, best thing to do is contact us and there are two main ways to do that.
- By email, [CNSGPnotification@resolution.nhs.uk](mailto:CNSGPnotification@resolution.nhs.uk). Just a couple of things about that, it's really important that you set out the basis of your inquiry and we'll either respond by email or telephone to discuss the issue further.
- But we do urge you to not send any documents via email because they may contain patient's sensitive data and don't include any patient sensitive informational data in email. And once you've told us of the matter, we will provide you with a secure messaging service and that way you can share messages and documents with us securely and you can of course telephone us. Our claims helpline number is 0800 030 6798 and there will be somebody to answer the phone 24 hours a day, 365 days a year. At the end of the phone, there's a legal advisor waiting and they can talk about any clinical negligence claims that are covered by the scheme. This doesn't extend to medical legal matters because they will be covered by your MDO or your other indemnity provider.
- Nick Rogers:** So can people call NHS Resolution for general advice in the way that they did with their MDO?
- Michele Golden:** Not in the same way because the CNSGP doesn't cover the same breadth as the MDOs do, or did.
- So there will be a case manager on hand to provide advice on anything that's coming under the scheme, but legal advice and other matters fall outside the scheme and so as discussed previously, you'd need to seek that advice from your MDO or other indemnity provider.
- Nick Rogers:** Most people working in general practice have not gone through this system before and some may never do so.
- Could you tell me how NHS Resolution can reassure the general practice community about a recent changes?
- Michele Golden:** Well, I think the first thing is the general practice community need to understand that we're very much better support them.
- As we've mentioned in the previous podcast, we've got extensive experience in clinical negligence. We run the state scheme such as clinical negligence game for trust for over 20

years now, and we work closely with NHS England and Improvement, with professional bodies, with the MDOs and with other indemnity providers to ensure that these arrangements are working well.

It's of vital importance that the interface between this, our schemes CNSGP and other arrangements continues to work seamlessly for those working in general practice.

It's in nobody's best interest for us to make this more complicated for you, and we know that the Department of Health and Social Care is committed to keeping operation of these arrangements under very close scrutiny. We want to ensure they deliver value for money and effective service for those working in general practice.

**Nick Rogers:**

And so this is quite a change really for general practice.

Can you talk me through how those working in primary care can familiarise themselves with the scheme rules?

**Michele Golden:**

Well, this is obviously a scheme, so we have some language and terms that you're going to have to get used to. So the first one is that its responsibility of people covered under the scheme, we call them eligible persons, to ensure they've got full knowledge of the scheme rules. And these are available on our website along with a shorter summary document.

It's the responsibility of eligible persons to take reasonable steps to satisfy themselves that any liabilities occurred for NHS activities carried out by them, by their employees or any other person that they have engaged or permitted to carry out activities, will be covered by the scheme.

So in short, if the eligible person is either carrying out activities, employing somebody, carry out activities, or allowing somebody to carry out activities under the NHS contract, then they just need to make sure those activities are covered under the scheme. By requesting scheme benefits, therefore accepting the cover that the scheme has given you in relation to a claim, the eligible person agrees to be bound by these rules.

**Nick Rogers:**

Facing your claim can be a distressing experience for all those involved, and especially if an individual is named on a claim form. What do people do in this situation?

**Michele Golden:**

It can be really stressful. It can be really upsetting, and I think it's important for people to realise that they're not alone. In the first instance, there will be lots of support for people in this situation.

Firstly, your colleagues and the people that you're working with will be able to provide you with advice and support as will your MDO. We're committed to delivering fair resolution from harm, and we've got extensive experience in handling claims. And as I've already said, you're not alone, we're there to support you, and we will guide people all the way through the process.

**Nick Rogers:** That's really helpful, Michele. Are GPs and others still expected to see patients even if they're being sued by them?

**Michele Golden:** In a nutshell, Nick, yes.

So the GMC guidance states you should not end a professional relationship with the patient solely because of a complaint that the patient's made about you or your team or because of the resource implications of a patient's care or treatment.

You should enter professional relationship with the patient only when the breakdown of trust between you and the patient means you cannot provide good clinical care to that patient.

**Nick Rogers:** And will some people possibly have to go to court?

**Michele Golden:** Well, we continue to challenge claims when necessary and we increase our efforts to reduce the number of claims unnecessarily entering formal litigation.

So it's important to reassure people that the majority of claims we settle are resolved without formal court proceedings. And in those early stages, more claims are resolved without payment of damages than with payment of damages.

Just under a third of our claims end up in litigation and under 1% will go to a full trial. And again, it's worth knowing that most cases then end in judgment in favour of the NHS. So claims resolved without the need for formal court proceedings are managed by our in house teams and our panel firms. The overwhelming majority are resolved by negotiation in correspondence, in meetings between the parties or using some form of alternative dispute resolution which includes formal mediation.

**Nick Rogers:** And what can those working in general practice expect in terms of learning from CNSGP claims?

**Michele Golden:** So we run free events, we produce case studies, videos, podcasts, and other materials, which are all available through our Faculty of Learning and that's accessible via NHS Resolution's website.

**Nick Rogers:** That's great. Thanks Michele.

One final thing, if people still have questions where can they find additional guidance?

**Michele Golden:** So people find all the information they need on NHS Resolution's website.

In addition to scheme rules, we've got loads of other materials on the website, including a scheme scope table, ie what is and isn't covered, when and how to report a potential claim, responding to complaints, how long patients have to bring a claim when compensation is due, what happens when a claim is brought and if closing records.

**Nick Rogers:** Thanks again, Michele. So in this episode, we've covered who people should contact if they have a problem, what people should do if they receive a claim, and how NHS Resolution will share learning.

If you're unsure about coverage under CNSGP, you should check NHS Resolution's website or contact NHS Resolution via the mailbox [CNSGP@resolution.nhs.uk](mailto:CNSGP@resolution.nhs.uk).

For Incidents that occurred on or after 1 April 2019, report via the mailbox [CNSGPnotification@resolution.nhs.uk](mailto:CNSGPnotification@resolution.nhs.uk) and helpline 0800 030 6798. Report to NHS Resolution and MDO where allegations spanned a period pre and post 1 April 2019.

NHS Resolution's website contains more information on the other services that NHS Resolution deliver to providers and commissioners of primary care, including Primary Care Appeals, Safety and Learning and Practitioner Performance Advice.

(Published April 2020)