Factsheet 1: Basic information

NHS Resolution (formerly NHS Litigation Authority) was established in 1995 as a Special Health Authority and is a not-for-profit arm's length body of the Department of Health.

In April 2017, it changed its operating name to NHS Resolution to better reflect its work in handling and resolving negligence claims. NHS Resolution handles negligence claims on behalf of NHS organisations and independent sector providers of NHS care in England who are members of our schemes. The organisation's main responsibilities are:

Providing indemnity to 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).

Operating the clinical and non-clinical risk pooling indemnity schemes which NHS organisations join, on a voluntary basis, as scheme members.

Our approach to pricing is to financially incentivise those organisations which have fewer less costly claims, thereby supporting the reduction of harm and better staff and patient safety.

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.

For liabilities transferred to the Secretary of State for Health on 1 April 2013, following the abolition of Strategic Health Authorities and Primary Care Trusts, NHS Resolution deals with claims as agents for the Secretary of State.

The following tables set out the number of negligence claims (including potential claims or "incidents") reported to NHS Resolution in 2016/17 by member NHS Trusts, Clinical Commissioning Groups (CCGs) and Independent Sector (IS) providers of NHS care in England, together with the amounts disbursed by NHS Resolution on behalf of each of these members to handle and settle claims during the same period.

The Factsheet also includes details of the contributions paid by each member in 2016/17 for membership of our Schemes. Information relating to obstetric or 'maternity' claims is shown as a separate category (these claims are also included in the total figures).

When using the information, please note:

The number of claims/potential claims notified in 2016/17 and the amounts paid out in 2016/17 do not necessarily relate to the same cohort of claims.

Payments made in 2016/17 may relate to claims notified in earlier financial years, particularly where claims are large or complex. Similarly, claims and potential claims notified to NHS Resolution in 2016/17 may not be settled in that year: indeed in cases where a patient has indicated that they may be contemplating a claim and the member therefore notifies NHS Resolution (shown as an "incident" in the data), a formal claim may only be made many months later.

Moreover, many patients do not pursue an initial intention to make a claim and hence the "incident" may never become a "claim".

The data for the contributions is based on 5 years' worth of payments in year that relate to claims with an incident that occurred less than 10 years before the financial year of payment.

Factsheet 5 is based on total payments in year irrespective of the date of the incident.

Larger member organisations and those which provide more complex treatments may receive more claims than smaller organisations or those providing low risk care.

The tables also show whether or not a member organisation provides labour ward services, as claims arising from childbirth represent a significant element of expenditure under CNST.

Claims may be made long after the original event, especially where the patient concerned is a child. The tables show when a member first joined CNST: a member who joined in 1995 when the Scheme was first created is likely to have more CNST claims than a similar member which joined at a later date.

Where NHS services in an area have been re-organised, the organisation legally liable for the claim may not in fact have been managing the hospital in question at the time of the incident. Where organisations have merged, leading to “inherited claims”, we have tried where possible to indicate the date when the predecessor member joined CNST.

The amounts paid out on behalf of members are broken down into “damages” (the amounts paid to the patient), “defence costs” (the legal costs incurred by NHS Resolution in handling the claim) and “claimant costs” (the legal costs incurred by the patient in bringing the claim, where these are met by NHS Resolution).

It should be noted that these 2016/17 figures include repayments from previous years, for example where a payment was made in one financial year and then received back the following year. Occasionally, therefore, these figures may be less than zero. Moreover, where claims are made by members under the Property Expenses Scheme, for example in respect of stolen medical equipment, the payments made by NHS Resolution are not "damages" payments as such but rather a reimbursement to the member of its loss.

Until 2002, members handled and funded lower-value CNST claims themselves. However, in April 2002 all such claims were “called-in” to NHS Resolution and we now handle all CNST claims regardless of value. Because of this change in the scope of CNST, figures for the years preceding this date are not comparable with those for successive years and are not given. However, figures in this factsheet for 2016/17 are presented on a comparable basis with those provided for 2015/16, 2014/15, 2013/14, 2012/13, 2011/12, 2010/11, 2009/10, 2008/09, 2007/08, 2006/07, 2005/06, 2004/05 and 2003/04.

In order to protect the confidentiality of individual patients, we have not given precise figures where the number of claims/potential claims received in a year was fewer than five or the amounts paid out were lower than £5,000. Such cases are indicated with an *.

This Factsheet should not be interpreted as a league table. While we have attempted to give some indication of context in terms of the size of member, inevitably different institutions face different levels of risk because of the variations in the nature and complexity of the procedures they perform.

Further information:

Factsheet 2 - financial information - summary figures

Factsheet 3 - claims information (England) - summary figures

Factsheet 4 - information on individual trust assessment levels (only up until the 2013/14 financial year. We no longer assess members against these standards).

Factsheet 5 - information on individual trust claims experience in the latest financial year

Factsheet 6 - information on FHSAU statistics