

Press Release

Collaboration on Covid clinical negligence claims reaps rewards

The collaborative approach taken by NHS Resolution, Action against Medical Accidents (AvMA) and the Society of Clinical Injury Lawyers (SCIL) in designing and operating the Covid 19 Clinical Negligence Claims Protocol has significantly reduced the volume of clinical negligence claims that have become litigated and created savings benefiting the NHS and patients.

Figures from NHS Resolution show that since the implementation of the Covid 19 Clinical Negligence Protocol there has been a 6% reduction in the volume of settled cases that have been become litigated between financial years 2019/20¹ and 2021/22². This equates to a difference of 572 cases comparing the two years³.

It is accepted, the longer cases run for the higher the costs associated with the claim. It is another flag for cases to be properly investigated and settled fairly at the earliest opportunity, preferably pre issue. In the same period, the average difference in costs paid to claimant solicitors on litigated versus non-litigated closed cases amounted to around £57,000 per claim.

These estimates are encouraging, but there are areas of uncertainty, including around the size of any Covid 19 related effects on the numbers of claims received. Further data on claims trends before, during and after COVID should help isolate these effects and provide for greater certainty on the effectiveness of the Protocol itself and the savings achieved. Claims numbers and costs are also impacted by NHS Resolution assuming more responsibility for historic GP claims during this time period - these claims will also have to be extracted for the true costs savings to be identified.

If the Protocol is shown in due course to have permanently reduced the overall volume of litigation, then this work is likely to have saved significant costs for all parties, and most importantly the NHS. Lisa O'Dwyer, Director of Medico-Legal services at Action against Medical Accidents (AvMA), the UK charity for patient safety and justice said:

"The impressive likely cost savings are testament to what can be achieved when key, specialist clinical negligence stakeholders come together and collaborate. More generally, it is very positive to note that both claimant and defendant practitioners have derived considerable benefit from the clinical negligence protocol."

Simon Hammond, Director of Claims Management at NHS Resolution said: *"The Clinical Negligence Protocol has proven how collaboration can be of benefit to all parties. We look forward to working with SCIL and AvMA on the possibility of developing how the protocol could apply in a post-Covid environment."*

¹ NHS Resolution Annual Report and Accounts 2019/20 - figure 5. A total of 15,550 claims settled, with 11,117 settled without proceedings. 4433 settled with proceedings.

² NHS Resolution Annual Report and Accounts 2020/21 - figure 8. A total of 16,484 claims settled, with 12,623 settled without proceedings. . 3861settled with proceedings

³ 2019/20 (4433 litigated cases) minus 2021/22 (3861 litigated cases).

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Paul Rumley, Chairman of the Society of Clinical Injury Lawyers (SCIL) said: *“These figures are very encouraging, and we are pleased to be part of this effective, practical and now costs-saving work alongside AvMA and NHS Resolution. It goes to show how specialist claimant lawyers and indemnifiers can work in collaboration to find practical solutions to the challenges faced.”*

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Editors’ Notes

ABOUT SCIL

Society of Clinical Injury Lawyers

SCIL is a member organisation for specialist claimant solicitor firms dedicated to the field of clinical negligence. It has an executive team that is led by Chairman Paul Rumley (scil.org.uk).

AvMA - Action against Medical Accidents (AvMA) is the UK charity for patient safety and justice.

NHS Resolution is an arm’s-length body of the Department of Health and Social Care. We provide expertise to the NHS on resolving concerns and disputes fairly, sharing learning for improvement and preserving resources for patient care. NHS Resolution’s range of indemnity schemes aim to minimise unnecessary costs associated with negligence claims. This protects patients by preserving funds for care and reduces the immense stress placed on NHS staff by lengthy legal proceedings.