



Mr Anthony John

By email to: [request-1042603-cf7fde33@whatdotheyknow.com](mailto:request-1042603-cf7fde33@whatdotheyknow.com)

27 November 2023

Dear Mr John,

### **Freedom of Information Request Reference FOI-1474982**

Thank you for your request dated 30 October to the Department of Health and Social Care (DHSC), a copy of which can be found in the accompanying annex.

Your request has been handled under the Freedom of Information Act 2000 (FOIA).

DHSC holds information relevant to your request.

However, as some of the information held by DHSC is in the public domain we will, under section 21 of the FOIA (information accessible to the applicant by other means), refer you to the published source.

NHS Resolution (NHSR) is responsible for managing clinical negligence claims against the NHS in England. It does this on behalf of NHS bodies and GPs through the Clinical Negligence Scheme for Trusts (CNST) and the Clinical Negligence Scheme for General Practice (CNSGP) respectively. It also manages a range of other clinical negligence claims, including those made against NHS bodies which have been abolished, claims against current and former GP members of medical defence organisations, and those relating to the Covid-19 pandemic.

NHSR manages seven clinical negligence schemes. A brief description of each scheme and links to the published information is set out below.

CNST, which covers clinical negligence claims for incidents occurring on or after 1 April 1995 [The National Health Service \(Clinical Negligence Scheme\) Regulations 2015 \(legislation.gov.uk\)](#).

The Clinical Negligence Scheme for Coronavirus (CNSC), which will meet liabilities arising from the special healthcare arrangements taken in response to the Covid-19 pandemic [Coronavirus Act 2020 \(legislation.gov.uk\)](#) (section 11 is the relevant part of the Act).

CNSGP, which covers clinical negligence liabilities arising in general practice in relation to incidents that occurred on or after 1 April 2019 [The National Health Service \(Clinical Negligence Scheme for General Practice\) Regulations 2019 \(legislation.gov.uk\)](#).

The Existing Liabilities Scheme for General Practice (ELSGP), a state indemnity scheme for general practice, providing indemnity cover for NHS clinical negligence claims made

against current and former GP members of medical defence organisations in respect of liabilities incurred before 1 April 2019 [The National Health Service \(Existing Liabilities Scheme for General Practice\) Regulations 2020 \(legislation.gov.uk\)](#).

The Existing Liabilities Scheme (DHSC), which covers clinical negligence claims against NHS organisations for incidents occurring before 1 April 1995 [The National Health Service \(Existing Liabilities Scheme\) \(England\) Regulations 2018 \(legislation.gov.uk\)](#).

DHSC Clinical covers clinical negligence liabilities that have transferred to the Secretary of State for Health and Social Care following the abolition of any relevant health bodies [NHS Litigation Authority \(NHS LA\) Directions 2013 \(publishing.service.gov.uk\)](#) and [The National Health Service Litigation Authority \(amendment\) directions 2013 \(publishing.service.gov.uk\)](#).

The Ex-Regional Health Authority Scheme, which covers clinical negligence claims against former Regional Health Authorities abolished in 1996 (see attached document *NHSLA (Transfer of Liabilities) 1996 Order.pdf*).

You may also wish to contact NHR, which may hold information relevant to your request, as it also has scheme rules for the main schemes (CNST and CNSGP). Information about contacting NHR can be found here [Contact - NHS Resolution](#).

If you are not satisfied with the handling of your request, you have the right to appeal by asking for an internal review. This should be sent to [freedomofinformation@dhsc.gov.uk](mailto:freedomofinformation@dhsc.gov.uk) or to the address at the top of this letter and be submitted within two months of the date of this letter.

Please remember to quote the reference number above in any future communication.

If you are not content with the outcome of your internal review, you may complain directly to the Information Commissioner's Office (ICO). Generally, the ICO cannot make a decision unless you have already appealed our original response and received our internal review decision. You should raise your concerns with the ICO within three months of your last meaningful contact with us.

Guidance on contacting the ICO can be found at <https://ico.org.uk/global/contact-us> and information about making a complaint can be found at <https://ico.org.uk/make-a-complaint>.

Yours sincerely,

Freedom of Information Team  
[freedomofinformation@dhsc.gov.uk](mailto:freedomofinformation@dhsc.gov.uk)

## Annex

From: Anthony John <request-1042603-cf7fde33@whatdotheyknow.com>  
Sent: 30 October 2023 19:27  
To: FreedomofInformation <freedomofinformation@dhsc.gov.uk>  
Subject: Freedom of Information request - Clinical negligence claims settlement policy

Dear Department of Health and Social Care,

Please could you provide any documents you hold providing guidance or instructions to NHS Trusts or DHSC (including NHS Resolutions) employees, civil servants and ministers on whether and how to settle clinical negligence claims made against NHS Trusts.

For example (and without prejudice to the generality of the above), any documents that you hold which guide or instruct NHS trusts, employees, civil servants or ministers to only accept or make offers to settle claims where the claim has a greater than 50% chance of success at trial on liability.

Yours faithfully,

Anthony John

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Please use this email address for all replies to this request:  
request-1042603-cf7fde33@whatdotheyknow.com