

**NOVEMBER 2022**

**EXECUTIVE & PRESENTING OFFICER:**

**STATUS: FOR INFORMATION**

## **PURPOSE**

1.1 This is a report covering the period of 1<sup>st</sup> March 2022 to 31<sup>st</sup> August 2022 (6 months) and its purpose is to advise members of the number and types of civil and employment claims against the Force received during the period and the amount paid out for those claims finalised during the period together with reasons for settlement. The report also includes the current legal activity for Cleveland, Evolve Legal Services and the development of the collaborated Legal Service.

## **RECOMMENDATIONS**

1.2 It is recommended that Members note the content of the report.

## **SUMMARY OF LEGAL SERVICES COLLABORATION**

1.3 Evolve Legal Services is a policing collaboration that delivers legal services on behalf of 6 corporations sole (the Commissioners and Chief Constables of North Yorkshire, Durham and Cleveland).

1.4 The service provides in-house legal advice and representation across a broad range of legal matters and has expertise in civil litigation, employment litigation, commercial and operational law.

1.5 The service is a virtual service which has 62 permanent and temporary staff comprising barristers, solicitors, legal executives and paralegals. The service is delivered out of three hubs located at Peterlee, Middlesbrough and North Yorkshire but legal staff are expected to work across all clients. All staff are equipped to work remotely.

1.6 The service records legal activity using case management systems and monthly activity reports are maintained to manage trends in demand and skills gaps.

1.7 As at May 2021, the Evolve Legal Services Collaboration has:

1.7.1 A staffing structure that adopted the pre-existing staffing structure in the Durham and North Yorkshire teams with growth on both lawyer grades and support staff posts in the Cleveland Team. The growth reflected the sustained increase in demand for services in the Cleveland area. Additionally, the service has started to recruit to collaborative posts (jointly funded posts) with successful recruitment to the Operational Team and Employment Team that are funded between the three forces and Commissioners.

1.7.2 The teams are led by a professional head (a Force Solicitor or Deputy Force Solicitor) with a business and legal portfolio, each reporting to the Director of Legal Services. Each professional head has responsibility for the quality, costs and efficiency of the service delivery in their

portfolio areas. Risk management is undertaken by each Head of Portfolio with the Director of Evolve Legal reporting to each executive on high risk cases.

- 1.7.3 Costs are attributed to each corporation sole as a 'client' so that reporting on costs, forecasts and performance can be delivered to each client Chief Finance Officer.
- 1.7.4 Legal Services provides external legal services using the National Legal Services Framework (NLSF) and CLEP Framework which are nationally agreed fee structures for external law firms and Chambers. The NLSF has recently been renegotiated and this has been adopted as at 31<sup>st</sup> May 2021. External legal fees are managed by individual lawyers who use the National Legal Services Framework and CLEP Framework to achieve the best value for money across a range of external legal providers. We instruct external law firms and Chambers to act on our behalf to provide the services in accordance with NLSF and CLEP Framework when required.
- 1.7.5 Financial, risk and corporate management of legal services is delivered between the Director and Heads of Portfolio and relevant statutory officers within the relevant Offices of the Police and Crime Commissioners and police forces. This is managed internally in compliance with the Evolve legal services governance and performance management arrangements. These arrangements preserve local, trusted relationships, specifically legal services provided direct to the Police and Crime Commissioners and Chief Constables.
- 1.7.6 There has been limited staff turnover during the change process and where staff have left it has been due to professional opportunity and increased benefits, and retirement. The service has developed an accurate assessment of skills gaps and succession planning and has undertaken recent recruitment to build capacity and increase efficiency in reducing the work referred to external providers. Where posts have been advertised during the reporting period, the applicants have included high calibre candidates and we have had a good response to vacancies. The high level of well qualified applicants suggests that the collaborative legal service and Cleveland Police are attractive employment opportunities.
- 1.7.7 Legal work continues to be delivered across force boundaries and there has been a positive and sustained increase in the services provided to OPCCs.
- 1.7.8 Single processes have been designed by practitioners as part of the convergence work. These processes are essential to capitalise on digital working and the easy and efficient allocation of cases across teams. This has been dependent on the introduction of a case management system, and centralised knowledge hub which shares key cases and professional development as well as serving as a central team resource. Work is well underway to finalise workflows and aligned processes, for example how work is allocated.
- 1.7.9 A corporate launch has been delivered. The service has been working to the operating model for some time and both resources and IT enablers are in place to support full implementation. Each geographical hub has streamlined points of accessing the service and has allocation processes in place which utilise the virtual team resources.

## **EMPLOYMENT TRIBUNAL STATISTICS**

1.8 The summary below sets out the number of employment tribunal claims received and finalised within Cleveland including total spend on cases finalised.

1.8.1 15 Employment Tribunal claims received 01/03/2022 to 31/08/2022 (including ACAS early reconciliation matters).

This is compared to the last period, with 9 Employment Tribunal claims received (including ACAS early reconciliation matters).

1.8.2 2 Employment Tribunal claims finalised 01/03/2022 to 31/08/2022. This is compared to the last period, with 0 Employment Tribunal claims finalised (including withdrawn claims).

1.9 Total spend on Employment Tribunal claims finalised 01/03/2022 to 31/08/2022 (costs and damages) - £33,862.50. This is compared to the last period where total spend on finalised claims was £0.

1.10 Learning from employment matters are shared via a professional legal digest, the Knowledge Hub and via case outcomes for the specific clients.

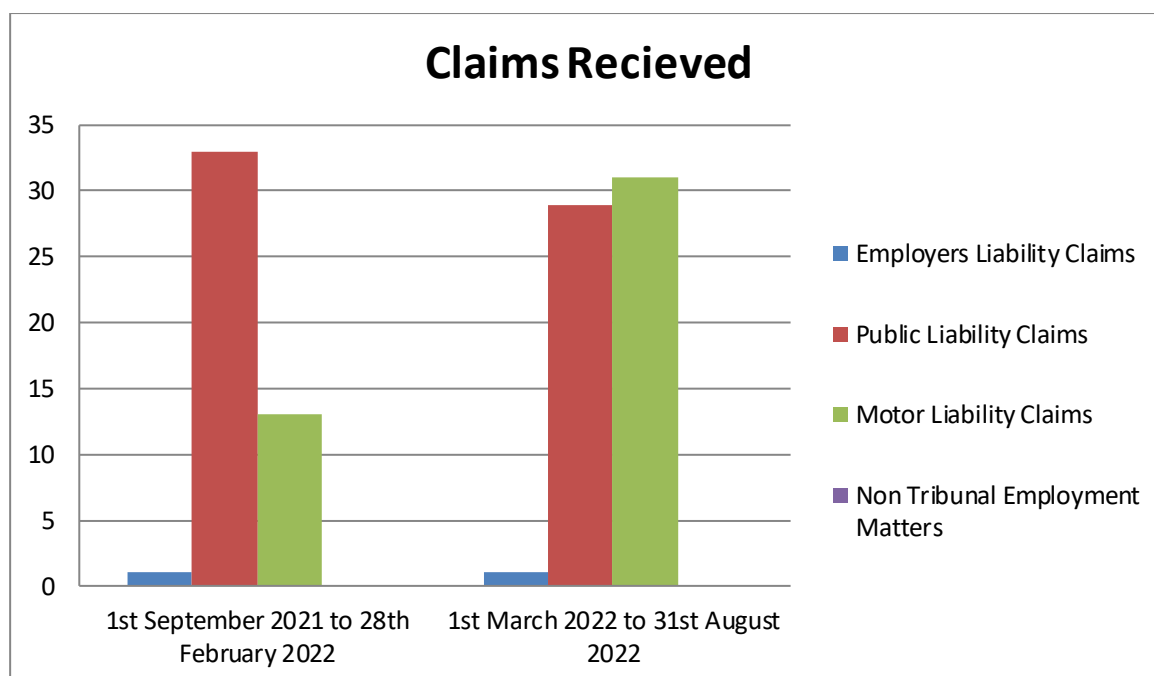
### **Ongoing Employment Tribunals**

1.11 Evolve Employment Team as a whole are dealing with 12 on-going Employment Tribunal Claims (claims that have progressed beyond early conciliation period) across the three forces (8 within Cleveland as at 15<sup>th</sup> November 2022). This is in comparison to the last report of November 2021, where we were dealing with 10 on-going Employment Tribunal Claims across the three forces (5 within Cleveland). Please note that these are claims against the Chief Constable and do not include any claims against PCCs/PFCC.

## **CIVIL CLAIM STATISTICS**

### **Number & Types of Claims Received**

1.12 There were 61 claims received during the period. This is compared to the previous period, in which there were 47 claims received.



1.13 Employers Liability claims are those made by Force employees and police officers following injuries sustained at work.

1.14 Public Liability claims include those made by members of the public who are accidentally injured or whose property is accidentally damaged/ lost as a result of police activities. They also include those made by arrested persons alleging false imprisonment, assault, malicious prosecution, misfeasance and trespass to property. (This is not an exhaustive list.)

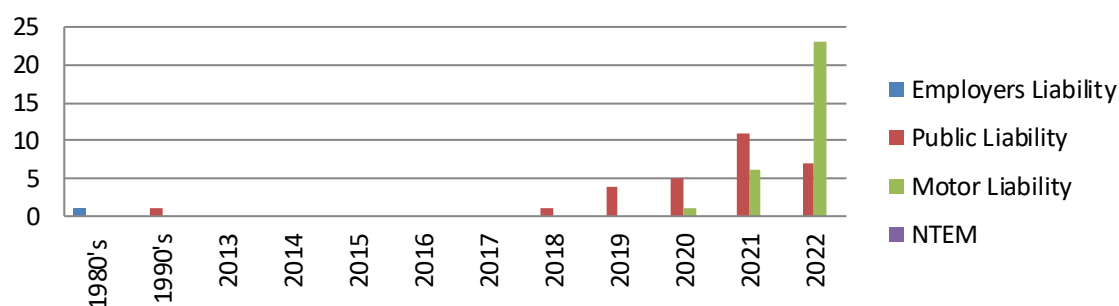
1.15 Motor Liability claims are those made by members of the public and police officers following damage and injuries sustained in road accidents involving a police vehicle.

1.16 Non tribunal employment matters (NTEM) are those claims made by police officers for pay, overtime and other allowances which they believe should have been paid during their service.

1.17 The time limit for bringing claims involving injury is three years and, for those not involving injury, it is six years. The Court can sometimes extend the time limit.

1.18 The following Chart notes how many claims have been received during the period and the incident date for each claim. Please note that where claims for long term injuries such as post-traumatic stress disorder or noise-induced hearing loss, the date of diagnosis has been recorded as the incident date.

## Incident Dates of Claims Recieved During Period



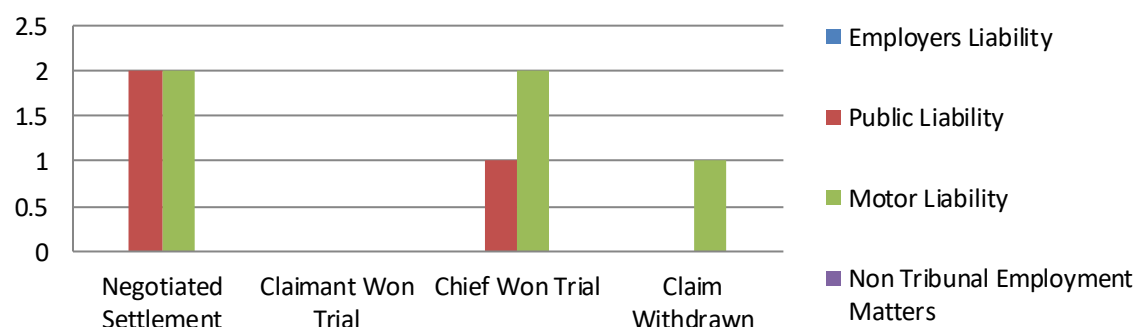
### Numbers of Claims Finalised & Results

1.19 Of the 8 cases finalised during the period, 4 were successfully defended/withdrawn (50%).

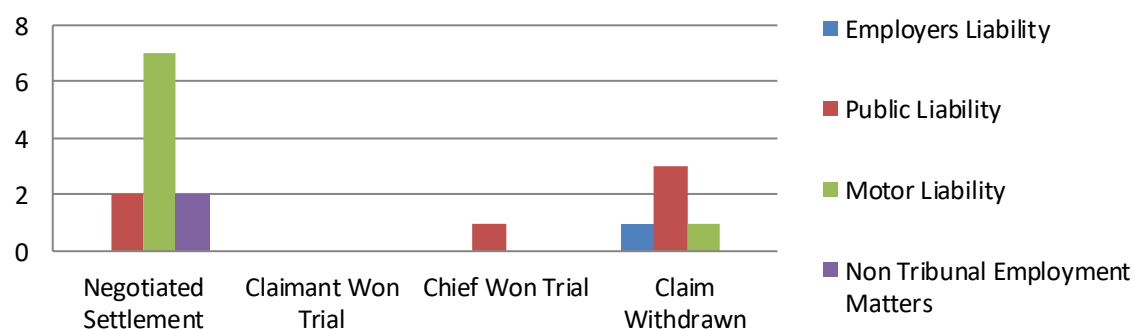
1.20 This is to be compared with the last period where 17 cases were finalised, 5 were successfully defended/withdrawn (29%).

The COVID pandemic has had a significant impact on cases being able to progress generally and through the Courts either for case management or listing of trials. This may differ in the next 6 month report as the restrictions begin to ease.

### Claims Finalised 01/03/2022 - 31/08/2022



### Claims Finalised 01/09/2022 - 28/02/2022



1.21 In relation to the 4 cases which were settled, the reasons for settlement were as follows:

<b>Reasons for settlement <sup>1</sup></b>	
Personal injury	1
Trespass to goods – damage to property	1
Motor (property damage and/or personal injury)	2

1.22 Feedback is provided on a case by case basis to ensure assistance is given in managing risks. At the strategic level the Force takes its 'risk' around civil litigation very seriously and works tirelessly to ensure that 'liability' is reduced wherever possible and that the 'lessons learnt' from finalised cases are integrated into operational and organisational planning and delivery. For example, lessons learnt from motor claims are taken to the Driver Standards Gold Group and any claims arising from Custody are taken to the Force Custody Gold Group.

1.23 Evolve Legal Services currently have the below civil matters on-going:

<b>Force</b>	<b>Public Liability</b>	<b>Employers Liability</b>	<b>Motor<sup>2</sup></b>	<b>Total</b>
<b>Cleveland</b>	142	38	55	235
<b>Other</b>	257	26	73	356

This is in comparison with the last report in November 2021, where the on-going civil matters stood at the below:

<b>Force</b>	<b>Public Liability</b>	<b>Employers Liability</b>	<b>Motor<sup>2</sup></b>	<b>Total</b>
<b>Cleveland</b>	142	18	54	214
<b>Other</b>	203	14	68	285

## Claims Analysis

1.24 We have undertaken claims analysis in respect of the most similar force groupings <sup>3</sup>

<sup>1</sup> It is important to note that no findings were made by a Judge/Jury in these cases as they were settled before any trial based upon legal advice on the prospects of a successful defence and commercial bases. Furthermore, in some cases liability/compensation may have been split with the claimant or a partner agency.

<sup>2</sup> Motor Claims are not dealt with by Legal Services within Durham Constabulary

1.24.1 Upon making enquiries, it was identified that Cleveland Police are grouped with Greater Manchester, Humberside, Merseyside, Northumbria and West Yorkshire due to having similar demographic characteristics. The below table summarises the arrest volumes for notifiable arrests, together with the arrest rate per 1000 population.

Force	13/14	14/15	15/16	16/17	17/18	18/19	19/20	20/21	21/22
Cleveland	17102	15607	14316	12016	10662	9703	10297	11866	11930
Greater Manchester	49112	47795	39075	31275	26656	26321	Not provided	Not provided	Not provided
Humberside	19284	13084	10502	12292	11432	18958	23004	22822	21094
Merseyside	29206	26912	21567	17899	16866	19322	18297	Not provided	Not provided
Northumbria	38416	33494	27276	21658	19776	20831	20832	20922	18343
West Yorkshire	43660	40762	39223	37760	36372	34684	33832	34842	35148
Rate per 1000 pop	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20		
Cleveland	30.69	28.01	25.69	21.56	19.13	17.41	18	20.8	20.9
Greater Manchester	18.31	17.82	14.57	11.66	9.94	9.81	Not provided	Not provided	Not provided
Humberside	21.01	14.26	11.44	13.4	12.46	20.66	25	24.4	25.5
Merseyside	21.15	19.48	15.61	12.96	12.21	13.99	13	Not provided	Not provided
Northumbria	27.04	23.57	19.2	15.24	13.92	14.66	14	14.23	12.47
West Yorkshire	19.61	18.31	17.62	16.96	16.34	15.58	15	14.86	14.99

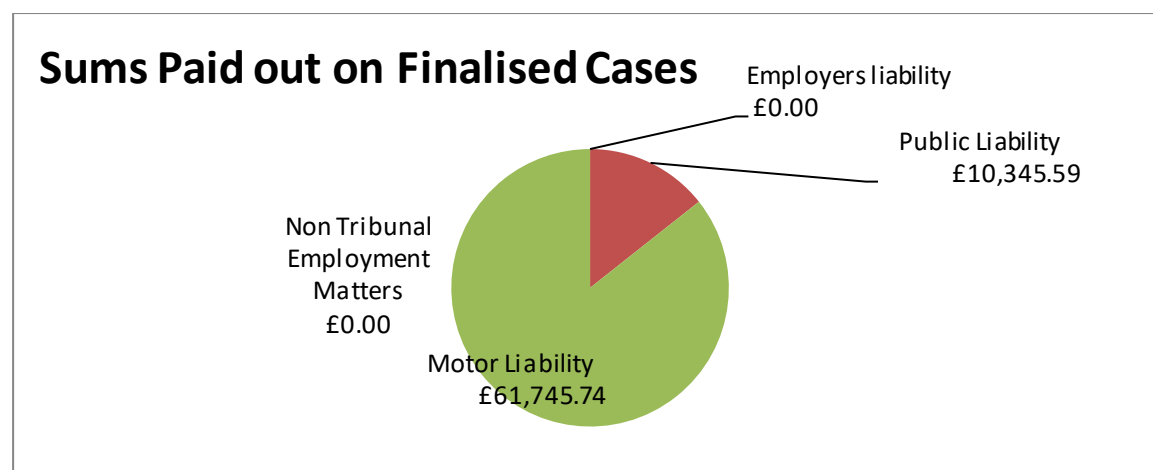
England & Wales	18.2	16.8	15.7	13.6	12.4	12.3	12	11.5
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<sup>3</sup> Most Similar Groups (MSGs) are groups of police force areas that have been found to be the most similar to each other based on an analysis of demographic, social and economic characteristics which relate to crime. With the exception of the City of London Police (for which it was not possible to identify any most similar forces), each force area has its own group of up to seven force areas to which it is 'most similar'. MSGs are designed to help make fair and meaningful comparisons between forces. Forces operate in very different environments and face different challenges. It can be more meaningful to compare a force with other forces which share similar social and economic characteristics, than, for example, a neighbouring force. The development of the MSG approach involved stakeholders from the Home Office, Association of Chief Police Officers and HMIC, with advice from independent academics. <https://www.justiceinspectorates.gov.uk/hmicfrs/crime-and-policing-comparator/about-the-data>

1.24.2 As per the above chart, the rates demonstrate that other than Humberside and West Yorkshire, the arrest rate is far higher in Cleveland in comparison to the other, large city forces, and in comparison to the England and Wales rate. For example in 2020 / 2021 Cleveland's arrest rate per 1000 population was 20.8 and the average across England & Wales was 11.5

### Sums paid out on Finalised Cases

1.25 The Chart below summarises the payments made on claims finalised during the period.



## Trends by Financial Years

1.26 The table below summarises the fluctuations over recent years.

Financial Year	Claims received	Total sum paid on finalised cases <sup>2</sup>	Percentage of cases successfully defended
01/04/09 – 31/03/10	136	£386,797	38%
01/04/10 – 31/03/11	129	£635,125	47%
01/04/11 – 31/03/12	134	£471,901	51%
01/04/12 – 31/03/13	99	£558,123	65%
01/04/13 – 31/03/14	122	£567,983	58%
01/04/14 – 31/03/15	105	£562,551	61%
01/04/15 – 31/03/16	115	£473,966	58%
01/04/16 – 31/03/17	90	£468,690	61%
01/04/17 – 31/03/18	92	£659,684	83%
01/04/18 – 31/03/19	89	£309,686	76%
01/04/19 – 31/03/20	71	£281,113	48%
01/04/20 – 31/03/21	73	£211,179	86%
01/04/21 – 31/03/22	84	£81,651	57%

## Exception Reports

1.27 The Chief Constable has agreed to provide the Police and Crime Commissioner (PCC) with an exception report following the settlement of a civil claim case which meets either of the following criteria:

- The case has been defended by the Force but has been lost at trial
- The amount payable in finalising the case is above the insurance 'excess' for that claim.

<sup>2</sup> Court hearings have been delayed so some successful cases cannot be finalised until costs element is resolved.



- 1.28 In addition, it was agreed that the exception reports submitted to the PCC would be appended to the Civil Claims report presented to the Audit Committee for their information. There are no Exception Reports for this period.

## **Implications**

### Finance

- 1.29 In relation to insured risks, none of the claims finalised exceeded the 'excess'.
- 1.30 Although the sums paid out for insured risks outweigh the sums recovered, savings (in terms of potential damages) have been made in those cases successfully defended and savings (in terms of solicitor's costs) have been made by dealing with claims in-house.

### Diversity & Equal Opportunities

- 1.31 There are no diversity or equal opportunities implications arising from the content of this report.

### Human Rights Act

- 1.32 There are no Human Rights Act implications arising from the content of this report.

### Sustainability

- 1.33 There are no sustainability implications arising from the content of this report.

### Risk

- 1.33 There are reputational and financial risk implications arising from this report as clearly enforcing the law, i.e. exercising statutory powers to arrest, search, detain and prosecute, has inherent risks that should be mitigated against through effective training, review, risk management, 'lessons learned' activities and peer review/inspection.
- 1.34 The Force has detailed policy and procedures that govern and direct the activities of individuals in areas of risk i.e. police use of motor vehicles, detention in custody, the police use of force and our operational firearms response. In all these areas the regular review of litigation cases and other high profile operations takes place within policy forums to improve professional practice, led by respective chief officers.
- 1.35 Finally, our responsibility as an employer is also an area of litigation and cost where we seek to minimise risk and discharge our duties as a lawful, responsible and diligent employer.
- 1.36 High and sustained demand on the employment and civil litigation matters combined with the impact of reduced court sessions and slower case progression will have a likely impact on the next reporting period. This is likely to result in an increase in the use of external legal providers with associated expenditure. Evolve Legal Services has in place some mitigations in respect of minimising the impact of this. The Finance Business Partner has been advised of likely increases and we also have governance arrangements in place whereby monthly budget meetings are held between the Force Solicitor, Practice Manager and Finance Business Partner to provide updates in relation to any increases in expenditure. Legal Services also provide a non-insured reserves list to Finance.

## **Conclusions**

1.37 Whilst Legal Services have no control over the number of claims received, feedback is provided on a case by case basis to ensure assistance is given to Service Units in managing risks. At the strategic level the Force takes its 'risk' around civil litigation very seriously and works tirelessly to ensure that 'liability' is reduced wherever possible and that the 'lesson learnt' from finalised cases are integrated into operational and organisational planning and delivery.

## **Originator of report**

**Hannah Langham**