

**JUNE 2023**

**EXECUTIVE & PRESENTING OFFICER:**

**STATUS: FOR INFORMATION**

## **PURPOSE**

1.1 This is a report covering the period of 1<sup>st</sup> September 2022 to 28<sup>th</sup> February 2023 (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 64 permanent and temporary staff comprising barristers, solicitors, legal executives and paralegals. 8 posts are currently vacant. The service is delivered out of three hubs located at Peterlee, Middlesbrough and Northallerton 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 2023, the Evolve Legal Services Collaboration has:

1.7.1 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.

1.7.2 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.

- 1.7.3 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 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.
- 1.7.4 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.
- 1.7.5 Previously ELS has had limited staff turnover, this has changed recently with a number of lawyer changes, typically 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. We are now experiencing difficulty recruiting to niche posts which have attracted small numbers of applicants with generalist skills. This marks a recent change in our ability to recruit but this does not extend to posts requiring civil or employment law experience.
- 1.7.6 Legal work continues to be delivered across force boundaries and there has been a positive and sustained increase in the services provided to OPCCs.
- 1.7.7 Single processes have been designed by practitioners and are in place. ELS are now working to Lexcel accreditation.

## **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 5 Employment Tribunal claims received 01/09/2022 to 28/02/2023 (including ACAS early reconciliation matters).  
This is compared to the last period, with 15 Employment Tribunal claims received (including ACAS early reconciliation matters).
  - 1.8.2 1 Employment Tribunal claim finalised 01/09/2022 to 28/02/2023. This is compared to the last period, with 2 Employment Tribunal claims finalised (including withdrawn claims).
- 1.9 Total spend on Employment Tribunal claims finalised 01/09/2022 to 28/02/2023 (costs and damages) – £10,000. This is compared to the last period where total spend on finalised claims was £33,862.50

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

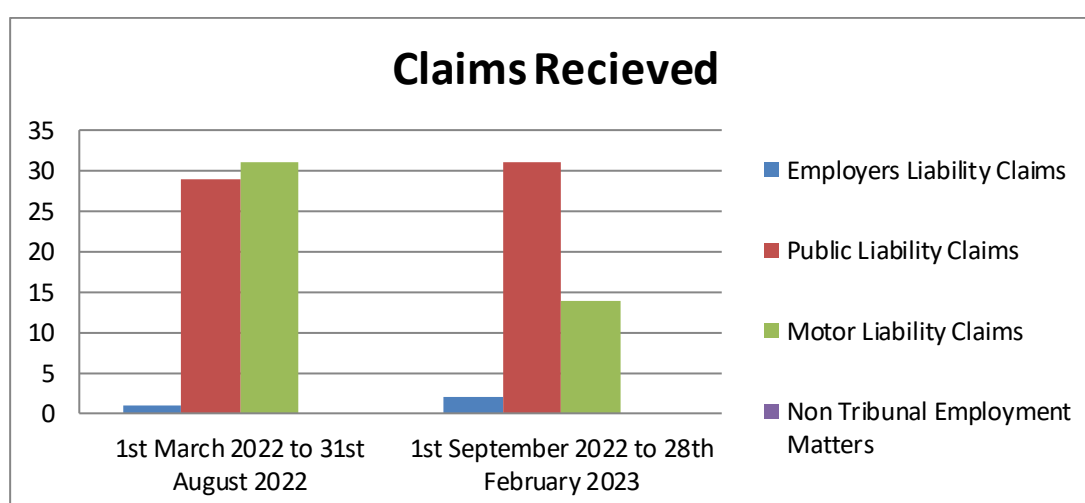
### Ongoing Employment Tribunals

- 1.11 Evolve Employment Team are as whole dealing with 11 on-going Employment Tribunal Claims (claims that have progressed beyond early conciliation period) across the three forces (7 within Cleveland as at 30<sup>th</sup> May 2023). This is in comparison to the last report of November 2021, where we were dealing with 12 on-going Employment Tribunal Claims across the three forces (8 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

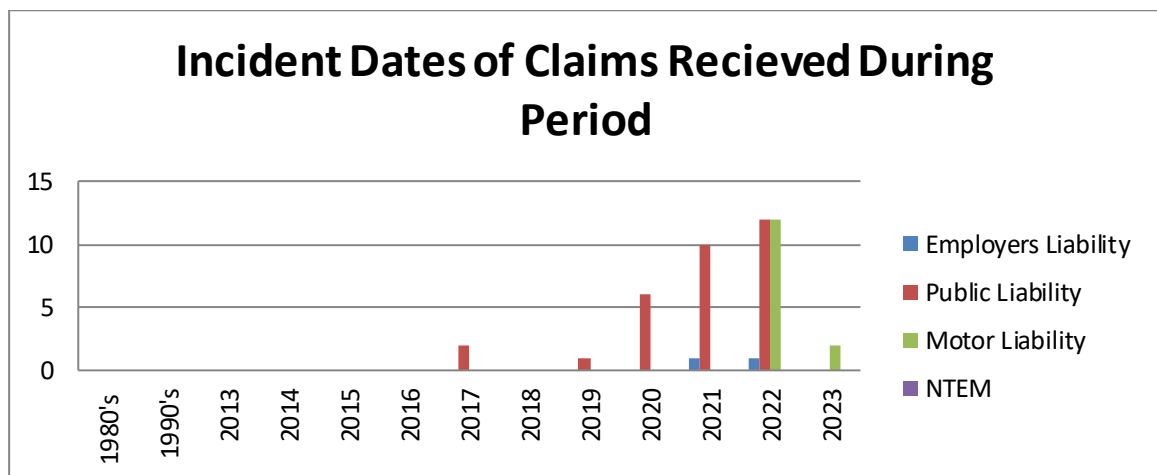
- 1.12 There were 47 claims received during the period. This is compared to the previous period, in which there were 61 claims received.



- 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.

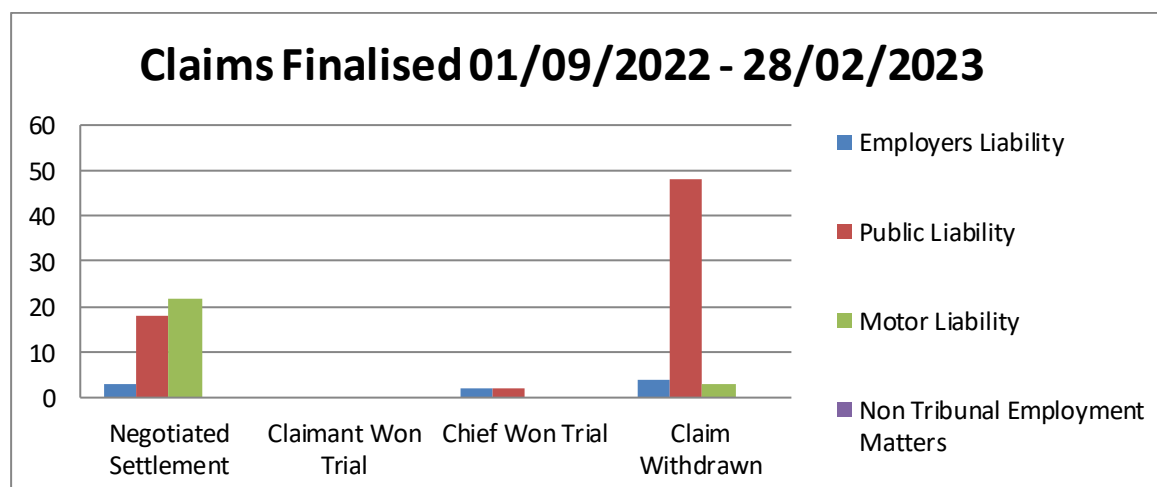
1.18 The following Chart notes how many claims have been received during the period and the incident date for each claim. Please note that where claims for long term injuries such as post-traumatic stress disorder or noise-induced hearing loss, the date of diagnosis has been recorded as the incident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

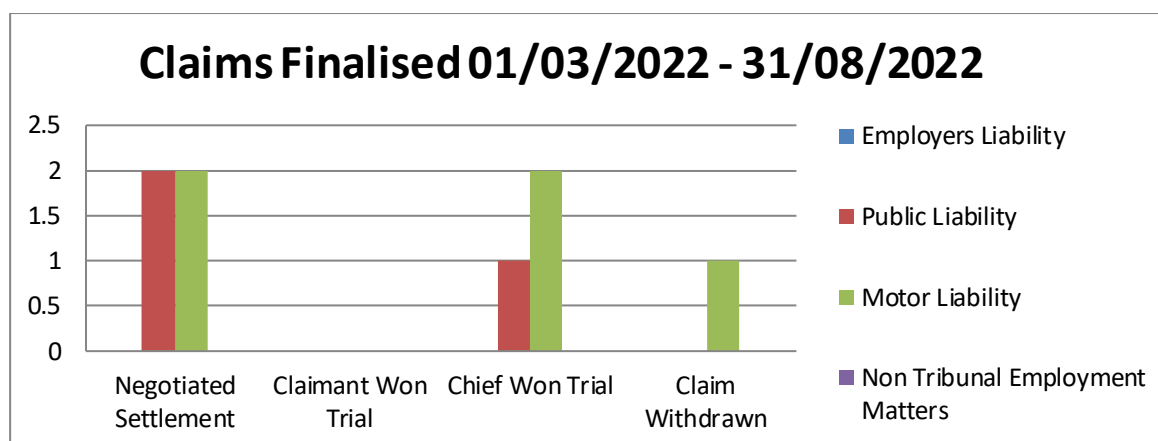


#### Numbers of Claims Finalised & Results

1.19 Of the 102 cases finalised during the period, 59 were successfully defended/withdrawn (58%).

1.20 This is to be compared with the last period where 8 cases were finalised, 4 were successfully defended/withdrawn (50%).





1.21 In relation to the 43 cases which were settled, the reasons for settlement were as follows:

Reasons for settlement <sup>1</sup>	
Personal injury	3
Negligence	3
False Imprisonment	6
Misfeasance	1
Trespass to property	5
Breach of Human Rights	1
Breach of Data Protection	2
Motor (property damage and/or personal injury)	22

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:

Force	Public Liability	Employers Liability	Motor <sup>2</sup>	Total
Cleveland	130	13	24	167
Other	264	16	74	354

<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.

This is in comparison with the last report in December 2022, where the on-going civil matters stood at the below:

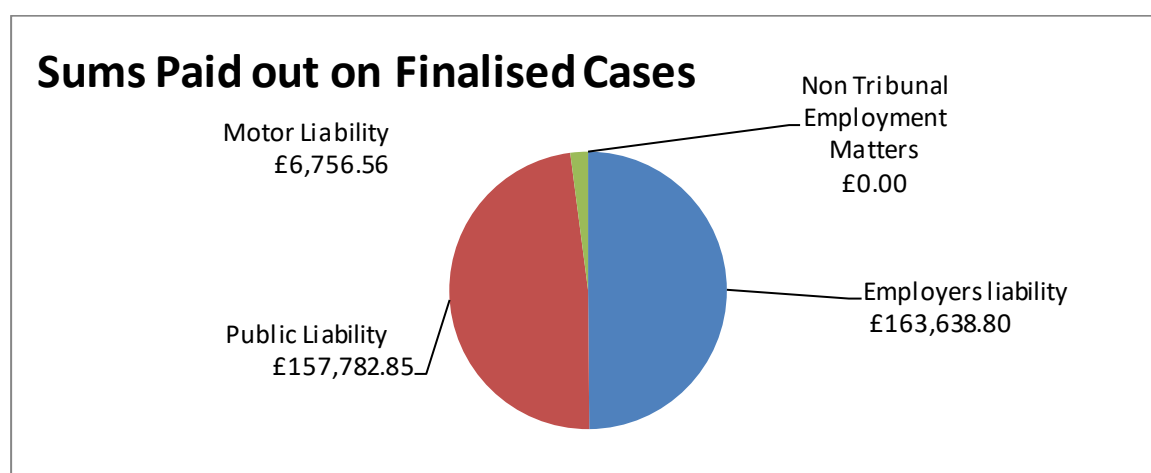
Force	Public Liability	Employers Liability	Motor <sup>2</sup>	Total
Cleveland	142	38	55	235
Other	257	26	73	356

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

Please note that the current stats may be slightly out of date in relation to 'other' due to IT issues with the case management systems following an upgrade. These issues are in the process of being resolved and we are working to get the system fully up to date as soon as possible.

### Sums paid out on Finalised Cases

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



### Trends by Financial Years

1.25 The table below summarises the fluctuations over recent years.

Financial Year	Claims received	Total sum paid on finalised cases	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%
01/04/22 – 31/03/23	103	£432,851	51%

## Exception Reports

1.26 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.

1.27 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

1.28 In relation to insured risks, none of the claims finalised exceeded the 'excess'.

1.29 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

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

### Human Rights Act

1.31 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

1.32 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.

1.33 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.

1.34 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.

1.35 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**

1.36 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**  
**Samantha Rumins**