

**NOVEMBER 2023**

**EXECUTIVE & PRESENTING OFFICER:**

**STATUS: FOR INFORMATION**

## **PURPOSE**

1.1 This is a report covering the period of 1<sup>st</sup> March 2023 to 31<sup>st</sup> August 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 62 permanent and temporary staff comprising barristers, solicitors, legal executives and paralegals. 11 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 November 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 Evolve Legal Services are currently moving to a new leaner management structure which is due to take effect on a two year pilot basis from 1<sup>st</sup> January 2024. This is expected to deliver savings on establishment costs and represents a more efficient management arrangement.

The changes introduce career pathways for non-legally qualified leaders. The new management structure will still provide close links to individual clients at a strategic level.

- 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 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. The CLEP framework is currently undergoing national review. 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 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.
- 1.7.7 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 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 3 Employment Tribunal claims received 01/03/2023 to 31/08/2023 (including ACAS early reconciliation matters).

This is compared to the last period, with 5 Employment Tribunal claims received (including ACAS early reconciliation matters).

1.8.2 2 Employment Tribunal claim finalised 01/03/2023 to 31/08/2023. This is compared to the last period, with 1 Employment Tribunal claims finalised (including withdrawn claims).

1.9 Total spend on Employment Tribunal claims finalised 01/03/2023 to 31/08/2023 (costs and damages) – £1,250. This is compared to the last period where total spend on finalised claims was £10,000.

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

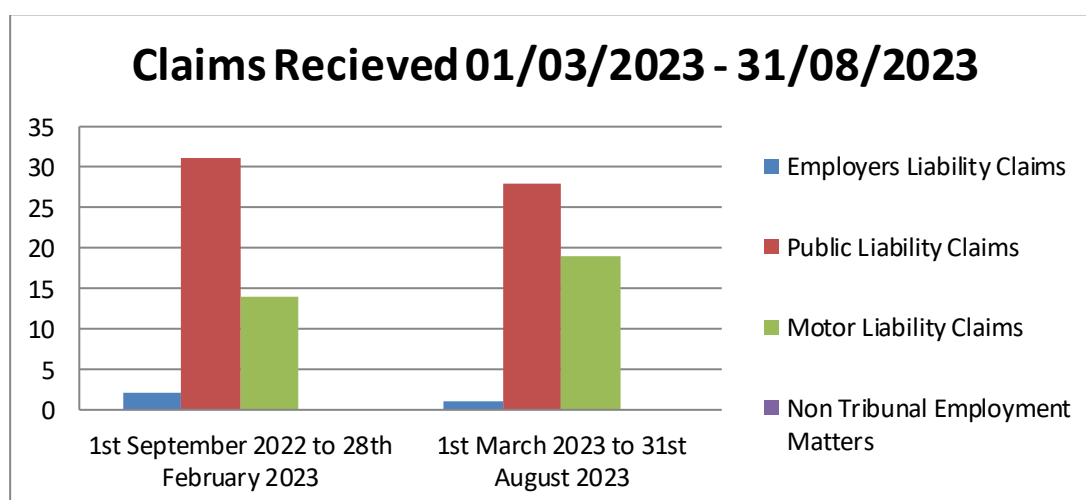
### Ongoing Employment Tribunals

1.11 Evolve Employment Team are as whole dealing with 12 on-going Employment Tribunal Claims (claims that have progressed beyond early conciliation period) across the three forces (6 within Cleveland as at 14<sup>th</sup> November 2023). This is in comparison to the last report of November 2021, where we were dealing with 11 on-going Employment Tribunal Claims across the three forces (7 within Cleveland).

## CIVIL CLAIM STATISTICS

### Number & Types of Claims Received

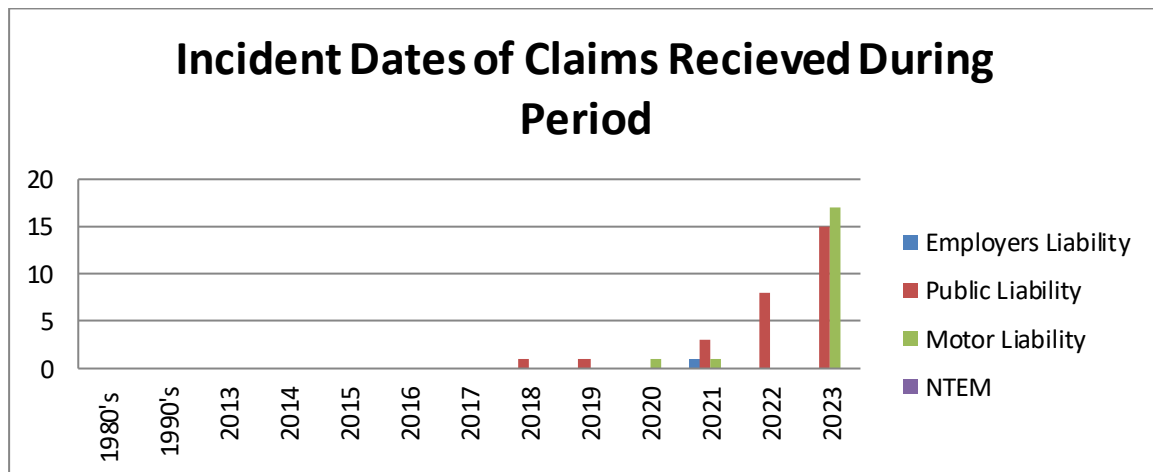
1.12 There were 48 claims received during the period. This is compared to the previous period, in which there were 47 claims received.



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

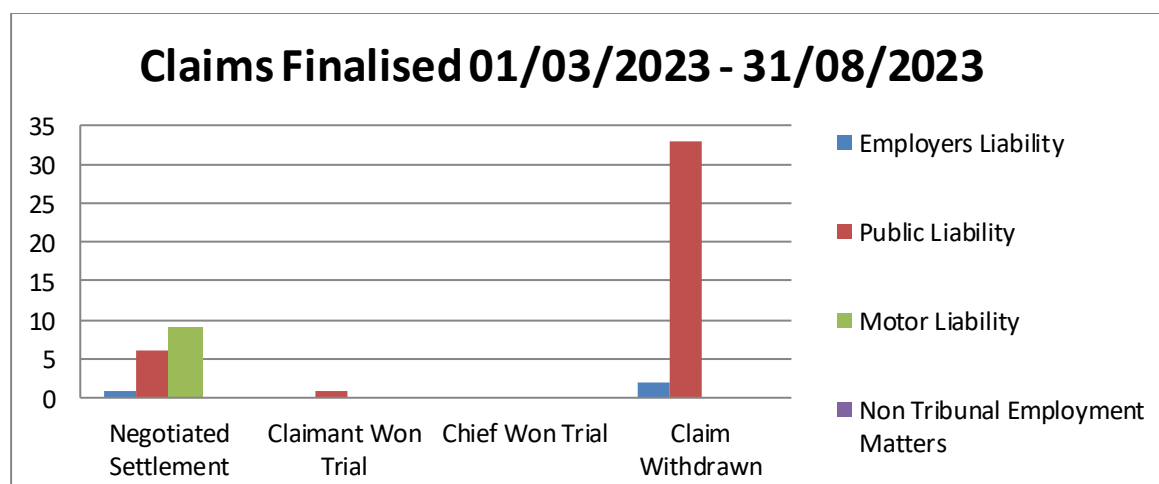
1.14 Public Liability claims include those made by members of the public who are accidentally injured or whose property is accidentally damaged/ lost as a result of police activities. They also include those made by arrested persons alleging false imprisonment, assault, malicious prosecution, misfeasance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

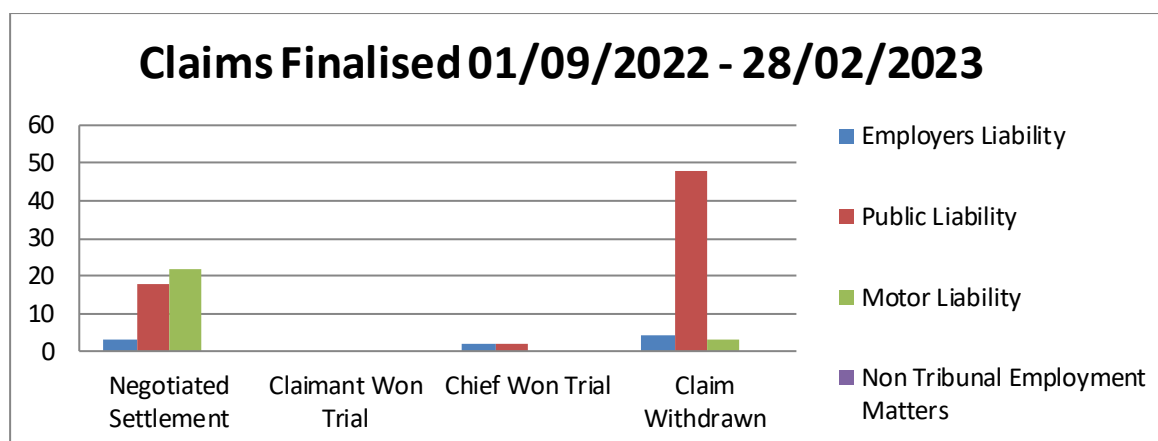
- 1.15 Motor Liability claims are those made by members of the public and police officers following damage and injuries sustained in road accidents involving a police vehicle.
- 1.16 Non tribunal employment matters (NTEM) are those claims made by police officers for pay, overtime and other allowances 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.



#### Numbers of Claims Finalised & Results

- 1.19 Of the 45 cases finalised during the period, 35 were successfully defended/withdrawn (78%).
- 1.20 This is to be compared with the last period where 102 cases were finalised, 59 were successfully defended/withdrawn (58%).





1.21 In relation to the 10 cases which were settled, the reasons for settlement were as follows:

Reasons for settlement <sup>1</sup>	
Personal injury	1
Assault – Unreasonable Force	1
False Imprisonment	3
Breach of Data Protection	1
Destruction or damage of Property	2
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. Lessons learnt is also given to individual officers/staff; individual Departments or forcewide through Executive leads.

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

Force	Public Liability	Employers Liability	Motor <sup>2</sup>	Total
Cleveland	147	16	71	234
Other	289	22	61	372

<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 June 2023 where the on-going civil matters stood at the below:

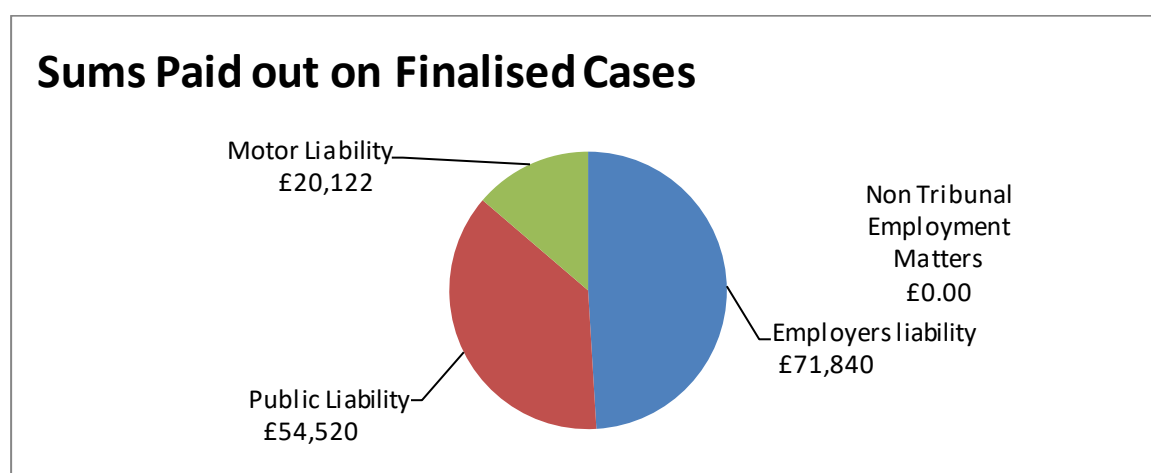
Force	Public Liability	Employers Liability	Motor <sup>2</sup>	Total
Cleveland	130	13	24	167
Other	264	16	74	354

<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%
01/04/23 – 09/11/23	53	£135,983	75%

## Exception Reports

1.26 The Chief Constable previously 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.

1.26.1 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 is 1 exception report attached for a claim that was lost at trial, during this period.

## Implications

### Finance

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

1.28 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

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

### Human Rights Act

1.30 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

1.31 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.

1.32 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.

- 1.33 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.

### **Conclusions**

- 1.34 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**



# Report to the Police & Crime Commissioner for Cleveland



## Exception Reporting of Civil Claims Cases

### Background

This report is being presented to the PCC Audit Committee following the settlement of a civil claim case that meets either of the following criteria:

- the case has been defended by the Force but has been lost;
- the amount payable in finalising the case is above the insurance 'excess' of the Force.

The Force has insurance in place to cover payments for public liability claim cases with an 'excess' of £125,000. This means that where any claims are settled above this level the Force pays the first £125,000 of the claim. Any claims settled below this amount are funded from Force budgets.

All exception reports presented to the Audit Committee will be included in the routine civil claim statistics reports that are presented on a six monthly basis.

### Summary of the Case

In March 2022 we received civil proceedings seeking compensation from a member of the public claiming for the destruction of clothing, time off work and distress and inconvenience, in the sum of £2161.00.

The claim arose from an incident in August 2020 when the police received a report that the Claimant had stated they were the victim of a serious criminal offence. The Claimant's clothing was retained as evidence but the investigation was closed in October 2020 due to inconsistencies in the Claimant's account. Thereafter, the Property store wrote to the Claimant advising the Claimant to collect the clothing within 28 days or it would be disposed of. The Claimant telephoned the Property Store and made an appointment to collect the clothing in December 2020. The Claimant failed to attend the appointment and after the expiry of 28 days the clothing was destroyed. The Claimant claimed he tried to make arrangements to collect on multiple occasions but this is disputed by the Property Store who keep records of calls and attendances on Niche.

The claim was defended on the basis the police discharged their obligations by giving notice to the Claimant pursuant to the Torts (Interference with Goods) Act 1977.

### Summary of the Outcome

The matter was listed for a small claims hearing on 3 March 2023.

Unfortunately, the judge formed the view that whilst we could rely upon s.12 we had not proven having complied with the same. The Judge believed the Claimant had attended the police station

and was turned away. This was a factual dispute between the parties. It was also during COVID restrictions.

The judge assessed damages, taking into account wear & tear, at £100. Nothing being allowed for time off work or distress & inconvenience (or PSLA). However, in addition to this, interest and the court fee being payable, we were ordered to pay the Claimant the total sum of £402.52.

**Michelle Phillips**  
**Head of Civil Litigation**  
**Evolve Legal Services**