



Clinical Negligence & Other Risks Indemnity Scheme (CNORIS)

Annual Report 2022-2023

NHS National Services Scotland

Date Published: February 2024

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Introduction

Clinical Negligence and Other Risks Indemnity Scheme (CNORIS) is a risk transfer and financing scheme for Health and Social Care across Scotland. The Scheme was first introduced in April 2000 by the Scottish Government Health Directorates in partnership with Willis Limited. The primary objective is to provide cost-effective risk pooling and claims management arrangements for members of the Scheme who include NHS Health Boards, National Health Boards and Health & Social Care Integration Joint Boards from across Scotland¹.

NHS National Services Scotland (NSS) manages the Scheme on behalf of the Scottish Government and the NHS Central Legal Office provides legal advice and guidance to members in relation to negligence claims.

This year's annual report provides summary details of the number and value of claims for reimbursement made during the financial year 2022-2023 by members and gives an insight into arrangements for payment of clinical negligence claims and the impact on the NHS in Scotland².

CNORIS covers both clinical and non-clinical claims³. In 2022-2023, there were 438 claims for reimbursement processed by CNORIS, with a total value of £55.56 million. This compares with 445 in 2021-22, 311 in 2020-21, 285 in 2019-2020, 301 in 2018-2019 and 300 in 2017-18. This represents a decrease of 1.57% in claim numbers and a 49.1% decrease in value compared with 2021-2022. Clinical claims accounted for 77% of all claims received during 2022-2023 and 95% of the value of payments.

The highest settlement payments were across various specialities, however obstetrics and gynaecology claims feature most heavily with seven claims out of the top 20 in terms of value.

It should be noted that although a claim for reimbursement may have been processed in 2022-2023 it often related to an incident that occurred many years previously. This is highlighted by the fact that of the claims received in 2022-2023 there were none with an incident date in 2022-2023 or 2021-2022. Graph 1 below analyses this in detail.

Outturn for 2022-2023

The value of reimbursement payments in 2022-2023 was £55.56 million.

Table 1 below provides a breakdown of the number and value of claims reimbursed during 2022-2023. Note that to maintain the confidentiality of claimants there is no breakdown provided per Board where numbers of reimbursements were below 5.

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Table 1: Number & Value of 2022-2023 Reimbursement Payments

NHS Board	Value of Reimbursements	Number of Reimbursements
	£	
National Waiting Times Centre	3,070,486	11
NHS Ayrshire & Arran	3,297,850	43
NHS Dumfries & Galloway	5,011,652	18
NHS Fife	3,516,526	37
NHS Forth Valley	2,468,044	25
NHS Grampian	1,838,365	26
NHS Greater Glasgow & Clyde	12,844,701	104
NHS Highland	4,933,889	17
NHS Lanarkshire	7,217,172	52
NHS Lothian	6,606,911	51
NHS Tayside	3,196,941	26
Scottish Ambulance Service	362,340	12

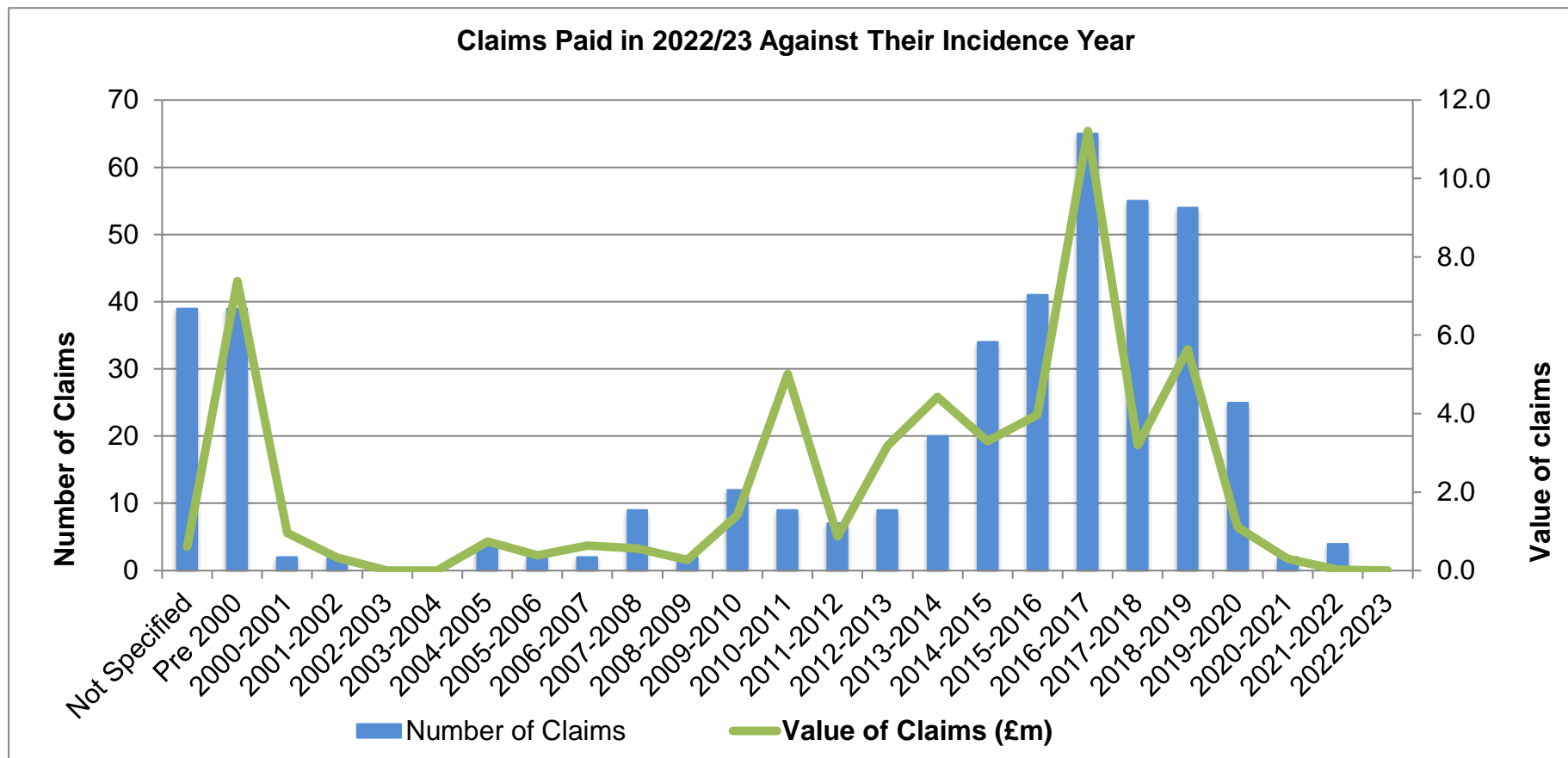
Below Members Submitted Less than 5 Claims for Reimbursement

NHS Board	Value of Reimbursements	Number of Reimbursements
NHS 24		
NHS Borders		
NHS Education for Scotland		
NHS Health Scotland		
NHS Healthcare Improvement Scotland		
NHS National Services Scotland		
NHS Orkney		
NHS Shetland		
NHS Western Isles		
The State Hospital		
Total Value & Number where <5	1,197,896	16
Total	55,562,773	438

Incident Timeline

Graph 1 below provides a breakdown of all 2022-2023 reimbursements by the value and number of payments attributed by the financial year of the incident. The majority of payments related to claims settled more than 5 years after the incident occurred, with some settlements taking considerably longer.

Graph 1: Claims Paid 2022-2023 by Year of Incident



Trends in Payments

Table 2 below shows the change in the numbers and values of CNORIS reimbursements paid over the last 10 years since 1 April 2013. This shows the variation in values and highlights how the increasing numbers of payments has not necessarily correlated to an increased value of payments. What can be seen however, is the levelling off of reimbursements paid at around 260 – 360 per year since 2016-2017.

Table 2: Payments made since 2013-2023

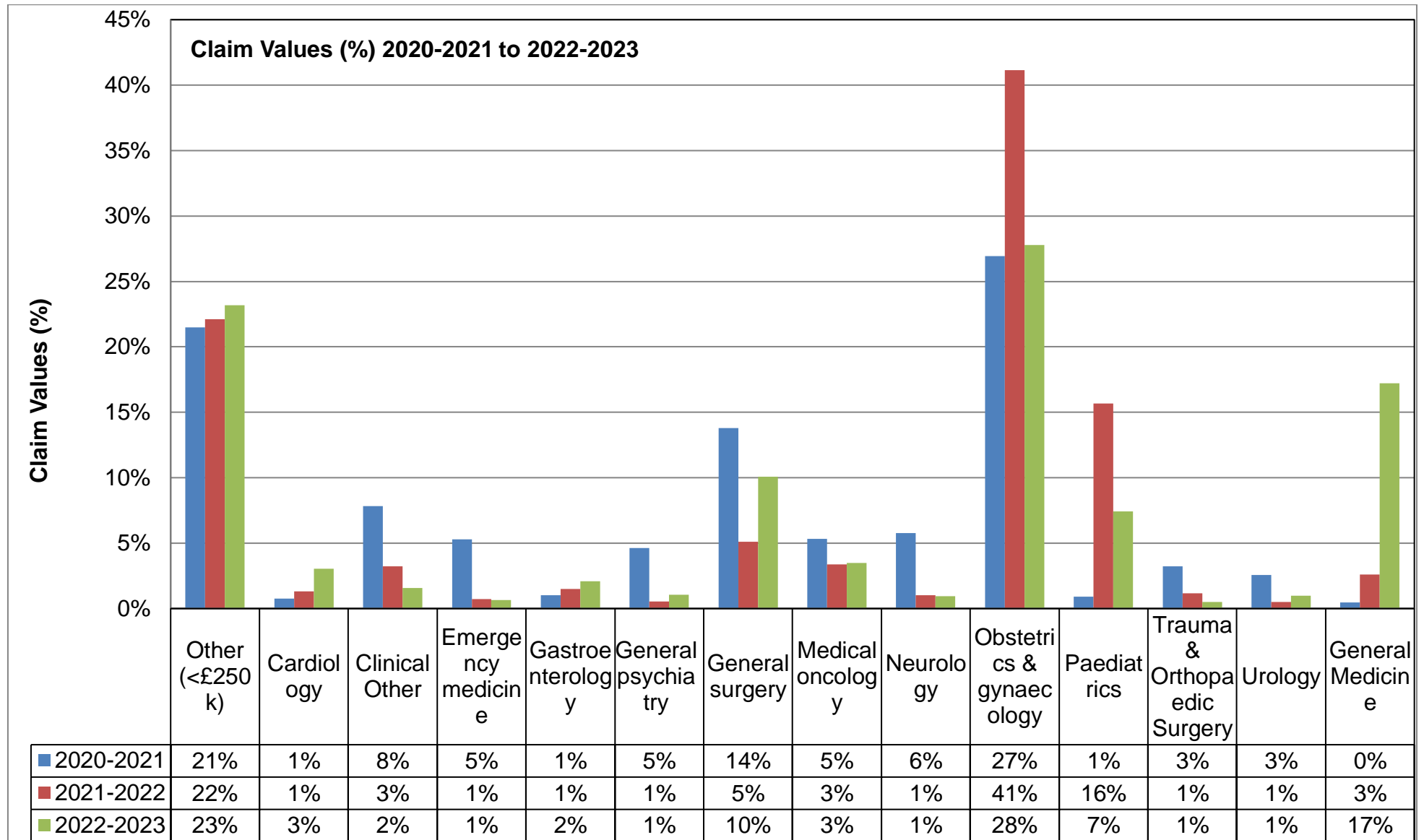
Financial Year	Payment Value Clinical (£m)	Payment Value Non-Clinical (£m)	Total Payment Value (£m)	Number of Payments Clinical	Number of Payments Non-Clinical	Total Number of Payments
2013-2014	34.87	3.53	38.40	160	41	201
2014-2015	36.96	1.62	38.57	193	61	254
2015-2016	49.70	3.10	52.81	235	56	291
2016-2017	38.29	1.97	40.25	342	82	424
2017-2018	32.00	1.62	33.61	260	40	300
2018-2019	37.54	2.07	39.61	265	36	301
2019-2020	35.82	2.14	37.96	232	53	285
2020-2021	60.26	1.33	61.59	278	33	311
2021-2022	105.97	3.27	109.24	363	82	445
2022-2023	52.60	2.96	55.56	335	103	438
Total	484.01	23.61	507.60	2,663	587	3,250

Of the 438 reimbursement payments made in 2022-2023, there were 8 individual payments that were over £1 million and 8 claim references where the total payments made in year exceeded £1 million – this includes interim award claims and then a final claim on closure.

The percentage breakdown, for clinical claims only, of the numbers and values of reimbursements over the last three financial years (2020-2021, 2021-2022 & 2022-2023), by speciality, is provided in graphs 2 and 3 below. These graphs highlight that, on average, obstetrics claims account for 19.2% of the total number of reimbursements and 26.3% of the total value of reimbursements during these financial years. The category 'other <£250k' covers all clinical specialities where the value of claims was less than £250,000 in any of the last 3 years. There were 283 reimbursements, with a total value of £48.54 million, across 45 specialities, which fell into this category.

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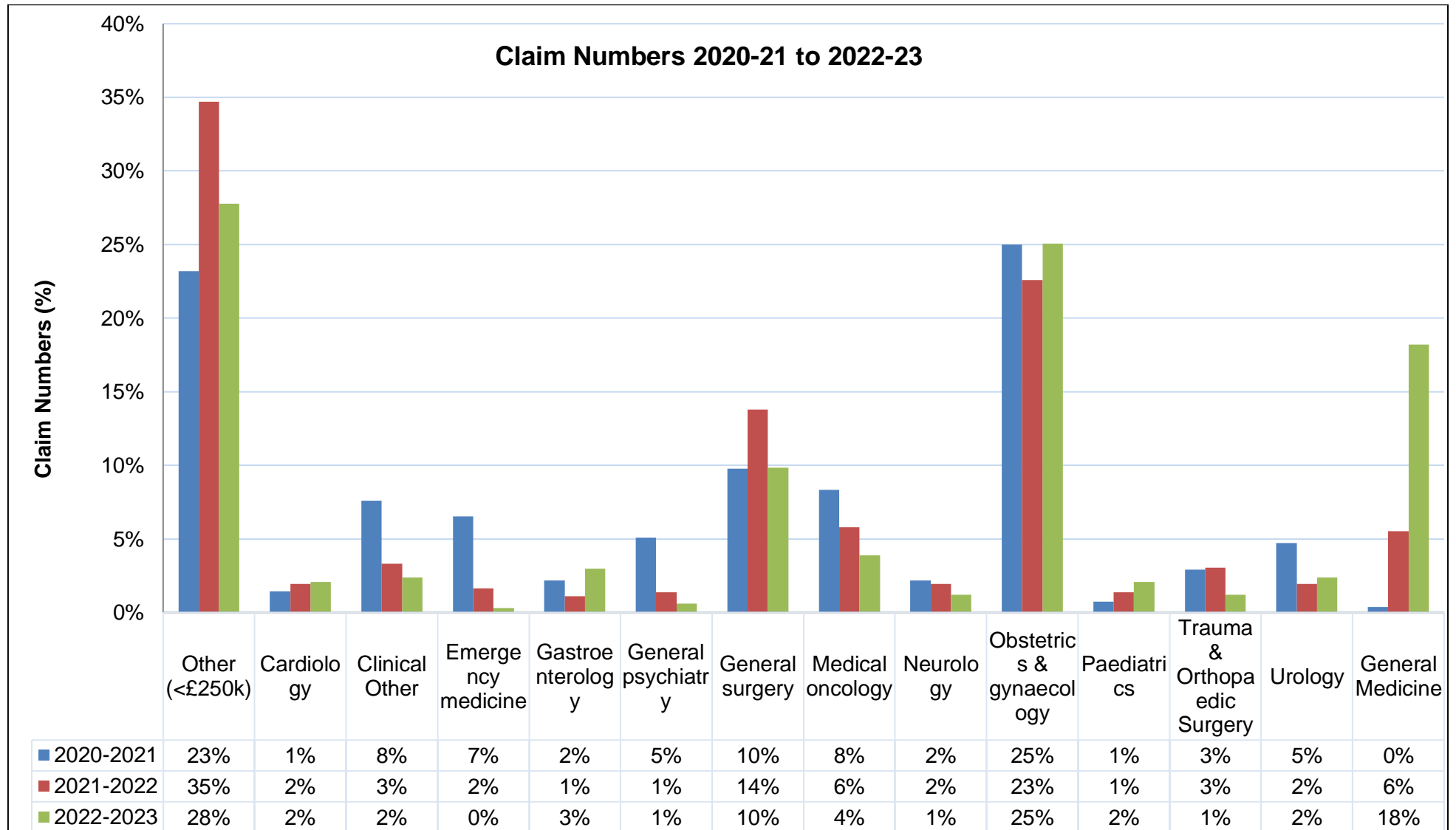
Graph 2: Value (%) of Clinical Claims Paid during 2020-2021 2021-2022 & 2022-2023 by Speciality*



*Clinical Other relates to reimbursements where there was insufficient information to attribute to a particular speciality.

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Graph 3: Number of Claim Payments made during 2020-2021, 2021-2022 & 2022-2023 by Speciality*



*Clinical Other relates to reimbursements where there was insufficient information to attribute to a particular speciality.

Periodic Payment Orders (PPOs) and Structured Settlements⁴ 2022-2023

PPO payments are paid to claimants periodically and, for most settlements, paid annually in December, with reimbursement to NHS Boards generally made within the following few months. During 2022-2023, there were 30 PPOs and four older structured settlements reimbursed across nine NHS Boards; one quarterly payment and the others annually. The values reclaimed by NHS Boards from CNORIS during 2022-2023 totalled £6.43 million. The increasing number of PPOs will continue to affect the future profile of payments by CNORIS, with future years' payments also being subject to inflationary increases.

Contribution Rates

CNORIS contributions are calculated by assessing both clinical and non-clinical risks, and based upon a 91% (clinical) and 9% (non-clinical) division of the total contribution.

Clinical risks are evaluated based upon an average percentage of: the risks associated with each clinical speciality (e.g., Neurology); the birth rate percentages for each; and an analysis of the current and historical clinical claim history.

Non-clinical risks are evaluated based upon an average percentage of: the Revenue Resource Limit (%); overall staffing levels – WTE (%); and an analysis of current and historical non-clinical claims.

The overall breakdown is also adjusted to take into account the fixed rate contributions made by Health and Social Care Integration Joint Boards.

Analysis of Claims by Year of Incident and Year

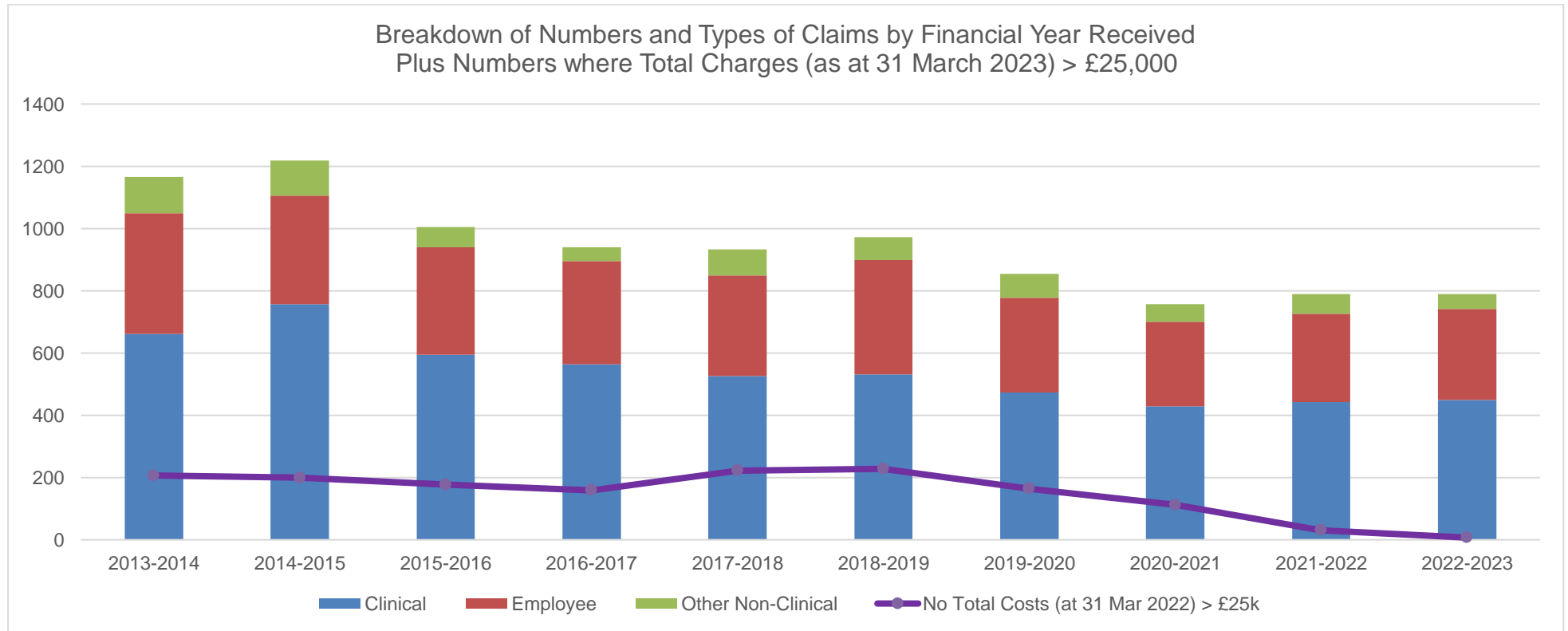
Graph 4 below provides a breakdown of the total number of litigation claims for compensation received by NSS CLO since 1st April 2013 by: Clinical (medical, nursing and mental health care); Employee; and all other non-clinical claims. The graph also details the number of those claims where the total costs, as at 31 Mar 2023, exceeded the CNORIS deductibles threshold of £25,000, irrespective of whether these costs have been reclaimed from CNORIS.

The graph shows that there has been a slight decrease in the total number of claims received this year when compared with 2021-2022, 789 and 790 respectively; an increase in clinical claims from 443 to 449; an increase in employee claims from 284 to 293; and a decrease in the number of other non-clinical claims from 63 to 47.

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However, it is important to bear in mind that the information relates to the number of claims received each year regardless of value and merit. It does not show the number or value of claims that will eventually be reimbursed via CNORIS, which are those where total costs (award plus legal expenses for both parties) exceed £25,000.

Graph 4: Breakdown of the Number of Claims Received by NSS CLO*

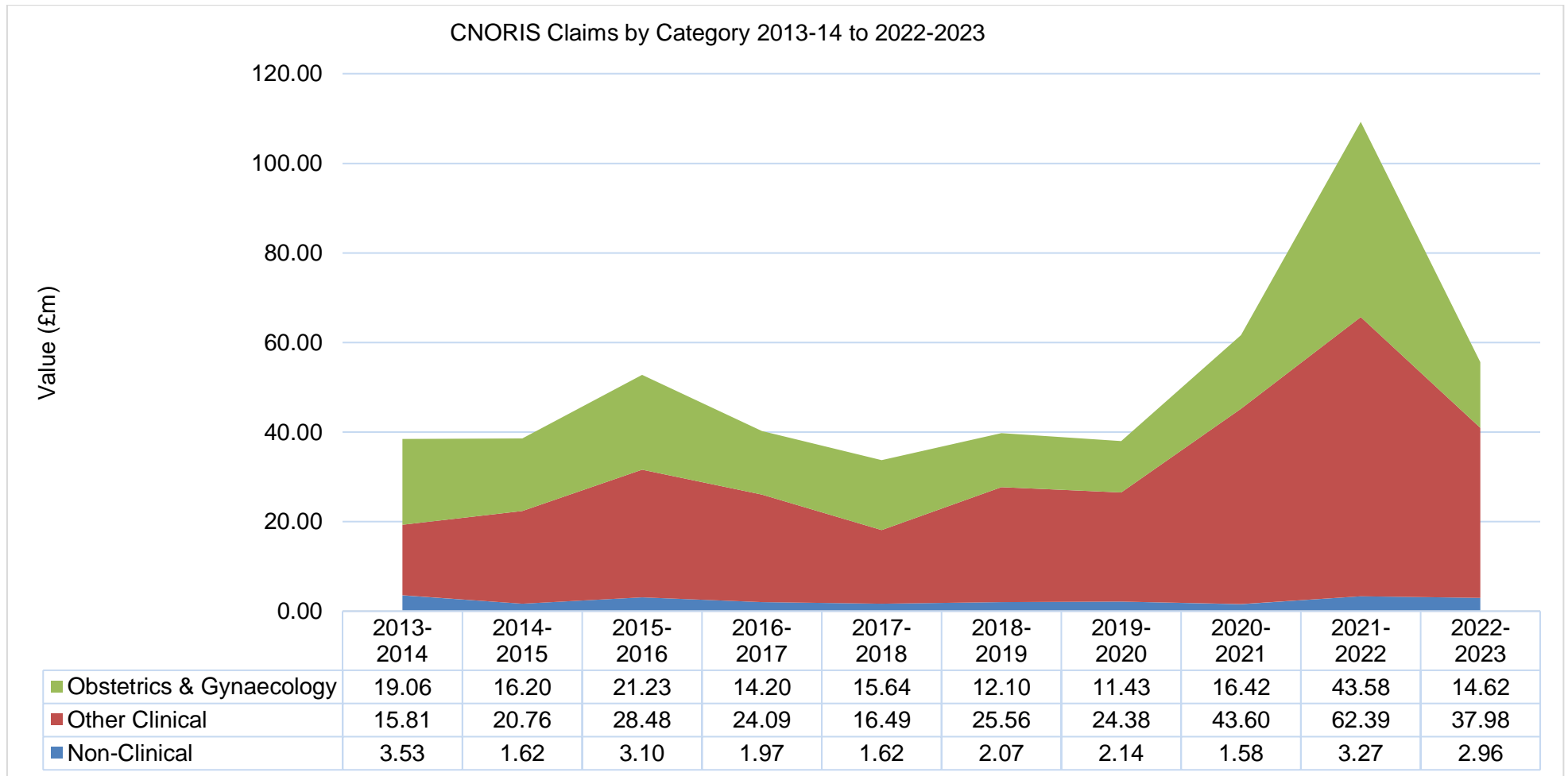


*Note that the line graph in Graph 4 represents the number of claims received, where the total costs to date exceed the CNORIS £25,000 deductibles threshold, irrespective of whether they have been settled or closed

Graphs 5 and 6 below provide a breakdown of payments reimbursed by CNORIS between 2013-2014 and 2022-2023 (total value of net payments made was £507.87 million), in relation to whether the claim related to an obstetrics & gynaecology incident, another type of clinical incident or a non-clinical incident. Graph 5 is in monetary terms and graph 6 in percentage terms.

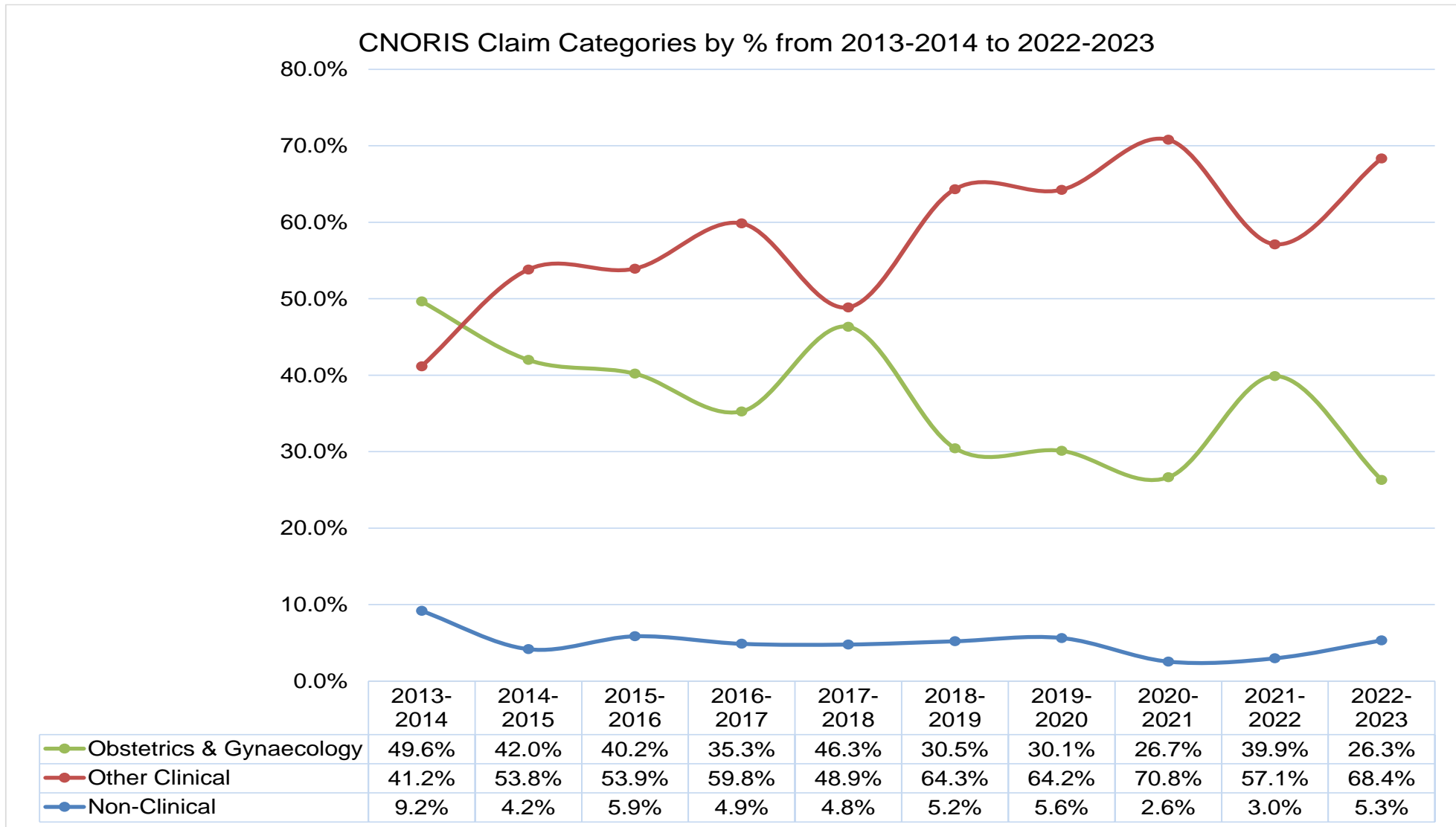
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Graph 5: Breakdown of CNORIS Payments made between 2013-2014 and 2022-2023



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Graph 6: CNORIS Payments made between 2013-2014 and 2022-2023 (in Percentage Terms)



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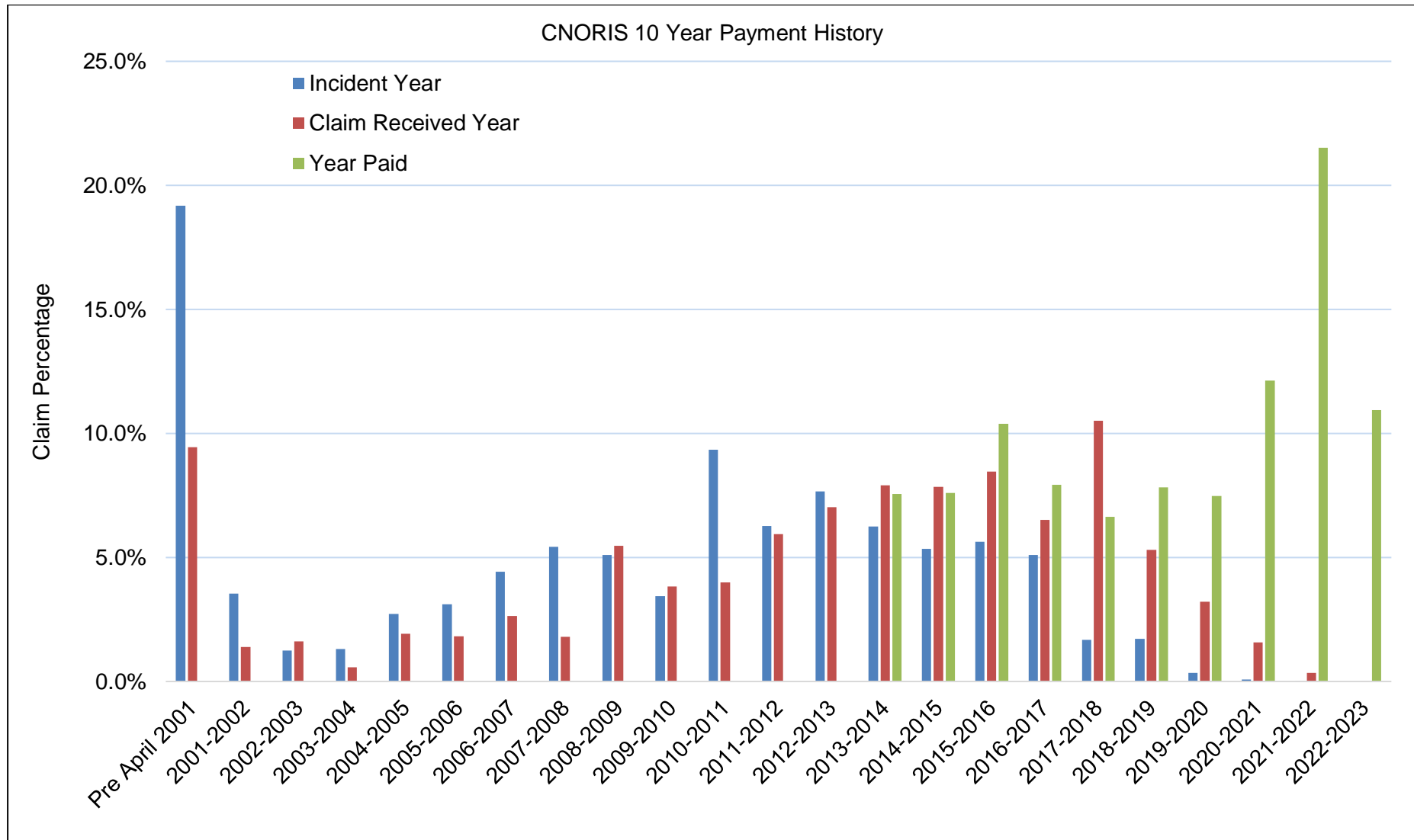
Graph 7 profiles the same period, but provides an analysis in percentage terms, based upon the total value of reimbursements paid to health boards during the period 1 April 2013 to 31 March 2023, by the years in which incidents occurred and by the years in which these claims were received by CLO. This highlights how some claims can take many years to conclude.

For example, 19.2% of the total value of payments reimbursed by CNORIS during this period related to claims where the incident took place prior to 1 April 2001, with 9.5% relating to claims received by health boards prior to 1 April 2001.

For claims paid in 2022-2023, where dates are provided, the average period between the incident date and the date the claim was received by CLO was 3.86 years, with an average of 4.4 years between CLO receiving the claim to payments being reimbursed to health boards through CNORIS. The median period between the incident date and the date CLO received the claim was 2.61 years with 3.72 years between CLO receiving the claim and the health board being reimbursed through CNORIS.

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Graph 7: CNORIS Payments (%) Between 1 Apr 2013 and 31 Mar 2023, Analysed by Year of Incident and Year Received



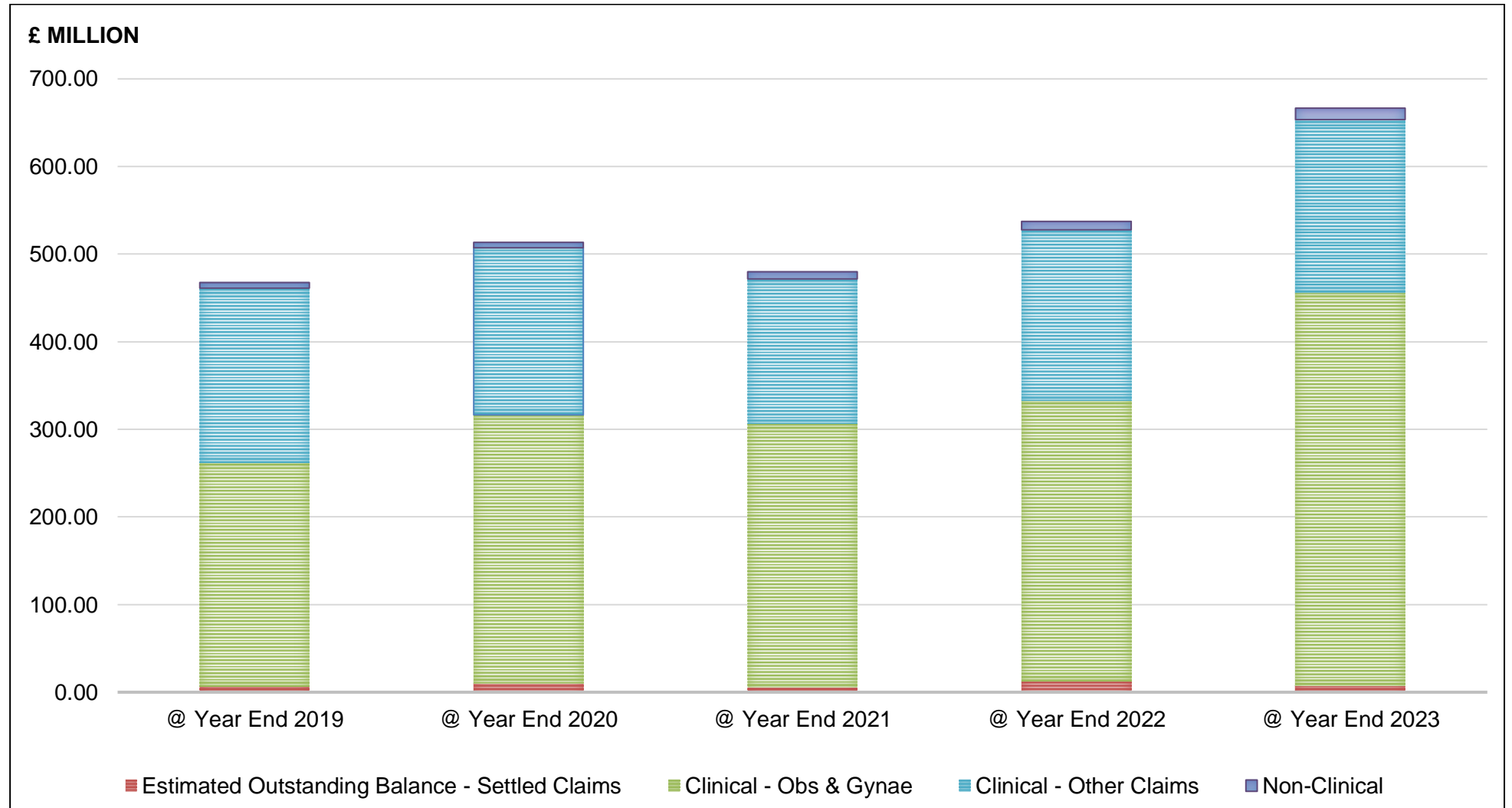
Pipeline Analysis

Graph 8 below is a pipeline analysis of the estimated values, adjusted for risk, of all open (unsettled) claims as at each year-end of the last five financial years (2018-2019 to 2022-2023), broken down by obstetrics & gynaecology claims, other clinical claims, non-clinical claims, plus the estimated outstanding balance of settled claims not yet closed. As at 31 March 2023, 32% of all open and not settled claims had an estimated settlement value, adjusted for risk, above the CNORIS £25,000 deductibles threshold, with 3% being currently estimated at over £1 million. This compares with 29% and 3% respectively for year ending 31 March 2022.

Claims are continually being reviewed as they progress through the legal process. Adjustments are made as required to the estimated settlement values, risk profiles and estimated settlement dates. Therefore, these values do not necessarily reflect actual or future CNORIS payments.

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Graph 8: Total Estimated Value of Open (Not Settled) Claims (adjusted for risk), plus Estimated Outstanding Balance for Settled Claims



Appendix 1: Background, Definitions, and Key Delivery Partners

Background to the CNORIS Scheme:

The Scheme was established under the Clinical Negligence and Other Risk Indemnity Scheme (CNORIS) Scotland Regulations 2000 as amended⁵, with effect from 1 April 2000. Participation in the scheme is mandatory for all NHS Boards in Scotland with responsibility for delivering patient care. Private contractors including General Dental Practices and General Medical Practitioners (GPs) are outwith the scheme (they have their own indemnity scheme arrangements). GPs may be covered in instances where they have been directly employed by Health Boards (e.g., out-of-hours scheme).

With the introduction of the Public Bodies (Joint Working) (Scotland) Act⁶ from April 2015, the Scheme was broadened to enable Integration Joint Boards and Local Authorities to become Members.

Definitions of the CNORIS Scheme:

The Scheme - Clinical Negligence and Other Risks Indemnity Scheme (CNORIS)

- Scheme Contractor – NHS National Services Scotland (NSS) manage the scheme on behalf of the Scottish Government.
- Scottish Government Scheme Manager – the lead individual within the Scottish Government Health & Social Care Directorates with responsibility for the policy and operation of the CNORIS scheme
- NHSScotland – the publicly funded healthcare system for people in Scotland.
- NHS Boards – the individual territorial and national Health Boards with direct responsibility for patient care in Scotland and who comprise the scheme membership.
- Integration Joint Boards – bodies established to take responsibility for functions delegated by Local Authorities and Health Boards in regard to Health and Social Care Services.

CNORIS Key Aims & Objectives:

- To encourage a rigorous and logical approach to risk management in both the clinical and non-clinical sectors of Health and Social Care services in Scotland;
- To provide advice on clinical and non-clinical scheme coverage to all parts of Health and Social Care services in Scotland;
- To support scheme members in an advisory capacity in order to reduce their risks;
- To indemnify scheme members against losses which qualify for scheme cover;
- To allocate equitable contributions amongst Members to fund their qualifying losses;
- To provide Members with scheme financial updates throughout the year to help with planning and forecasting; and
- To help manage risk by providing Members with clinical and non-clinical loss analysis throughout the year.

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Appendix 2: Organisations covered by the CNORIS are as follows:

Scottish Health Boards (14)	Scottish Integration Joint Boards (IJBs) (29)
NHS Ayrshire and Arran	Aberdeen City Health and Social Care Partnership Integration Joint Board
NHS Borders	Aberdeenshire Integration Joint Board
NHS Dumfries and Galloway	Angus Integration Joint Board
NHS Fife	Argyll and Bute Integration Joint Board
NHS Forth Valley	Clackmannanshire and Stirling Integration Joint Board
NHS Grampian	Dumfries and Galloway Integration Joint Board
NHS Greater Glasgow and Clyde	Dundee City Integration Joint Board
NHS Highland	East Ayrshire Integration Joint Board
NHS Lanarkshire	East Dunbartonshire Integration Joint Board
NHS Lothian	East Lothian Health and Social Care Partnership Integration Joint Board
NHS Orkney	East Renfrewshire Integration Joint Board
NHS Shetland	Edinburgh Integration Joint Board
NHS Tayside	Falkirk Integration Joint Board
NHS Western Isles	Fife Integration Joint Board
	Glasgow City Integration Joint Board
Scottish Special Health Boards (8)	Inverclyde Integration Joint Board
Healthcare Improvement Scotland	Midlothian Integration Joint Board
National Waiting Times Centre	Moray Integration Joint Board
NHS 24	North Ayrshire Integration Joint Board
NHS Education for Scotland	North Lanarkshire Integration Joint Board
Public Health Scotland	Orkney Health and Care Board
Scottish Ambulance Service	Perth and Kinross Integration Joint Board
The Common Services Agency (National Services Scotland)	Renfrewshire Integration Joint Board
The State Hospital	Shetland Islands Integration Joint Board
	South Ayrshire Integration Joint Board
Others (1)	South Lanarkshire Integration Joint Board
Mental Welfare Commission for Scotland	West Dunbartonshire Integration Joint Board
	West Lothian Integration Joint Board
	Western Isles Integration Joint Board

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NOTES

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- ¹ Membership of CNORIS is mandatory for all NHS Territorial and National Boards in Scotland and the Mental Welfare Commission for Scotland. The Scheme was also broadened with effect from 1 April 2015 to allow Integration Joint Boards (IJBs) and Local Authorities (LA) to become members of the Scheme at the discretion of the individual organisation. Refer to [Appendix 2](#) for a list of all CNORIS members as at 31 March 2023.
 - ² Through the Clinical Negligence and Other Risks Indemnity Scheme (CNORIS) members contribute annually to the CNORIS fund for meeting the award costs and legal expenses in regard to any claims for negligence pursued by patients, employees, third parties and members of the public.

Members are reimbursed for the costs incurred, less the relevant deductible value per individual claim, in regard to award payments made to claimants, the claimants' legal costs and the members' own legal expenses in any given year. The deductible value for claims raised since 2001 is £25,000 per claim.

The CNORIS Annual Report provides details in regard to the historical reimbursements paid to members of the Scheme from CNORIS in the relevant financial year (1 April to 31 March) together with comparatives and aggregates for prior years. The figures quoted include interim awards where claimants have received payments in advance of settlement and PPO payments, but do not include any costs not reimbursed to members.

The CNORIS Annual Report does not provide information in regard to the total number and value of all claims settled by members. However, the Pipeline Analysis does provide details of all current claims still to be settled.
 - ³ The non-clinical areas covered by CNORIS include employers' liability, public liability, product liability and non-clinical professional risks. Refer to the [CNORIS website](#) for further details.
 - ⁴ Periodic Payment Orders (PPOs) and Structured Settlements are where instead of receiving a single lump sum award payment, claimants receive usually a smaller lump sum together with periodic payments (normally annually) for a defined number of years, or life, depending upon what is agreed. PPOs are primarily agreed where there are ongoing costs associated with the care and wellbeing of the claimant and/or their family/guardians, such as the costs associated with the ongoing care of a severely disabled child into adulthood.
 - ⁵ For further information, refer to the [Scottish Government website pages for CNORIS](#).
 - ⁶ For further information refer to the [Government website on legislation](#).