THE NATIONAL HEALTH SERVICE LITIGATION AUTHORITY

Report and Accounts 2010

The National Health Service Litigation Authority

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Aims and objectives

When the NHS Litigation Authority was first created in 1995, our main functions were to administer schemes under which NHS bodies could pool their clinical negligence liabilities and to promote high standards of risk management in the NHS. Since then, our work has expanded to include schemes and risk management standards for non-clinical liabilities, the provision of an information service for the NHS on human rights case-law, dispute resolution between primary care practitioners and their local primary care trusts, and advice and assistance to NHS organisations when handling equal pay and age discrimination claims.

Our aims and objectives are set out in our Framework Document:

- The Secretary of State's overall aims for the Authority in administering the schemes are to promote the highest possible standards of patient care and to minimise the suffering resulting from any adverse incidents which do nevertheless occur. In particular, the Authority will contribute to these aims by its efficient, effective and impartial administration of the schemes, and by advising the Secretary of State on any changes that may be needed in the light of experience in running the schemes and of changing circumstances.

In pursuit of this overriding aim, we seek to:

- " … maximise the resources available for patient care, by defending unjustified actions robustly, settling justified actions efficiently, and contributing to the incentives for reducing the number of negligent or preventable incidents …"
- " … ensure that, where liability has been established, patients have appropriate access to remedies including, where proper, financial compensation …"
- " … contribute to the improvement of the quality of patient care by providing incentives within the schemes for NHS bodies to improve cost effective clinical and non clinical risk management …"
- "… minimise the cost to the NHS of obtaining legal advice in relation to the Human Rights Act 1998, by providing NHS bodies with access to a centrally coordinated information service …"
- "… provide mechanisms for the proper, prompt and cost-effective resolution of disputes between NHS primary care organisations and the practitioners and organisations that provide or seek to provide services for patients …"
- "… advise and assist (NHS organisations in England) in connection with any matter arising out of or in connection with any equal pay and age discrimination litigation …"

Abbreviations used in this Report

CNST – Clinical Negligence Scheme for Trusts

ELS – Existing Liabilities Scheme

Ex-RHAS – Scheme covering liabilities against the former Regional Health Authorities

LTPS – Liabilities to Third Parties Scheme

PCTs – Primary Care Trusts

PES – Property Expenses Scheme

RPST – Risk Pooling Schemes for Trusts (collective term for LTPS and PES)

Chair's report

Professor Joan Higgins
Chair

I am pleased to introduce the NHS Litigation Authority's Annual Report and Accounts for 2010. The Litigation Authority has an important role to play in the English NHS, supporting organisations to improve their risk management practice, resolving disputes in primary care, advising the Department of Health on legal and employment matters and compensating patients and staff, fairly and promptly, when things go wrong.

It is a time of great change in the NHS and in public services generally. The Authority is central to some of the big issues of the day, such as how to improve Patient Safety. As one of the longest established public bodies involved in this type of activity the Authority has been able to draw upon its unique claims data base to help to target interventions in the NHS which will really work.

In the last year the Authority has also contributed to the major public debate about how to provide access to justice at a reasonable cost, and our evidence to Lord Justice Jackson's enquiry is mentioned elsewhere in the Report. The increase in both the number and cost of claims, discussed later, underlines the urgency of finding a solution to this problem. A significant and growing proportion of NHS funds, which would otherwise be available for patient care, is being spent on litigation. The Authority is conscious of the need to find the right balance between managing these resources efficiently and cautiously and providing adequate financial compensation when it is justified.

The Authority has always taken seriously its responsibility to learn lessons from adverse incidents in the NHS and its role in preventing failures of care. In the last year it has worked hard to strengthen the 'feedback loop' to NHS organisations, when claims are made against them. We are very grateful to our solicitors for the additional work they are doing in this area. We believe this is an important service that we provide to the NHS and one which should reduce potential damage to patients and staff.

In November 2009 one of the Authority's Non Executive Directors, Brian Capstick, resigned from the Authority. I would like to record my thanks to Brian for his stimulating contribution to the Board and for the expertise which he brought and shared. He was a much valued colleague. I would also like to thank the staff of the Authority for their hard work during the year, together with the solicitors who are members of our panels and our partners in DNV. They all work under considerable pressure to ensure that we are a responsive and professional organisation.

Professor Dame Joan Higgins
Chair

Chief Executive's report

Stephen Walker
Chief Executive

There are no quiet years in the life of the NHS or the world of litigation, and bringing both together can produce rather more volatility than we would like.

2009/10 has seen claim numbers rising, for the second year in succession, under both of our clinical negligence and general liability accounts and the cost of settling individual claims continues to rise at a level way above inflation. The only good civil liability news in year, Lord Justice Jackson's report on the costs of civil litigation, has had some of the gloss taken from it by virtue of the mixed reception it has received. We await to see how the government will respond to the recommendations and how this will impact future claims.

Taking those issues in turn, the figures on page 13 show that the number of clinical negligence claims reported to the Authority in 2009/10 was 6,652 which represents a 10% increase over 2008/09, which, in turn, recorded an 11% increase over 2007/08. These numbers are particularly disappointing following 3 years of relative stability in claim numbers.

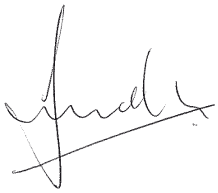
Under LTPS, new employers' and public liability claims reported in 2009/10 were 4,000, an increase of 10% over 2008/09, which followed an increase of 10% from 2007/08.

Multiplying those data by the judicial inflation factors of 10% per annum readers will appreciate that litigation continues to be not only very expensive, but increasingly so. Naturally we have looked at possible reasons for the growth in volume, but remain convinced that a major factor is the availability of the 'so called' no win no fee market which allows claimants to litigate without any financial risk, and which proves very lucrative for those solicitors who work on this basis. That cross refers with Lord Justice Jackson's report, which confirms what we have been saying for some years, namely that the costs of conducting litigation have become significantly disproportionate to the benefits in too many cases. A City of London solicitor succeeding in a clinical negligence claim can bill at £450 per hour and seek an uplift of 100% as a success fee, whilst we can secure the very best of the defence market for £205 an hour, with no success fees. We can only hope that the Courts will adopt the spirit of Lord Justice Jackson's recommendations in considering costs issues.

I mention the failures of care at Mid Staffordshire, as so many NHS reports will this year, but largely to compliment my colleagues and our solicitors who are seeking to offer innovative,

cost-effective and speedy case management to the numerous claimants arising from the events described by the CQC, and, more recently, by Robert Francis QC. The possibility of a better litigation model for group actions in future may be one of the first positive outcomes of those reports. We cannot undo what has occurred but we can try to minimise any further distress for those harmed and for the bereaved.

It is customary in these notes to the accounts to thank all of my colleagues for their invaluable assistance throughout the year, and, as always, I am more than happy to do that. Since we have not increased our head count over the periods of very significant growth in claims volumes mentioned above, those colleagues who have simply absorbed that additional work are even more deserving than ever of those thanks. I know that my gratitude is echoed by all members of the Board and the Strategic Management Team.



Steve Walker
Chief Executive

Director of Finance's report

Tom Fothergill
Director of Finance

As has already been mentioned by my colleagues 2009/10 has been another interesting and challenging year for the Authority. The Chair and Chief Executive have made reference to a number of areas which have contributed to that and I echo their views on those issues and most importantly the sterling efforts of our staff to deal with the increasing burden.

The current economic climate, particularly in the public sector, promises that 2010/11 will be another very interesting year. The NHS will certainly be facing financial challenges and the Authority is determined to do its best to assist both in the way we provide our services and also by improving our own efficiency.

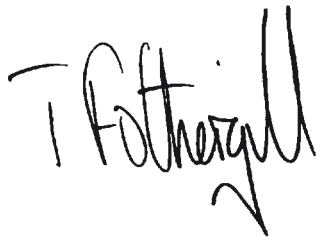
Claims numbers and the increases we have reported elsewhere are of particular concern to the Authority as they bring added burden to our staff and also financial pressure in the immediate and longer term when it is likely that public sector funding will be under increasing pressure. We are continuing to monitor activity and seek any clear indicators which will assist us and the wider NHS to control claims incidence and thus reduce that pressure.

I am pleased to note that despite the climate of increasing claims volumes our staff and panel solicitors have managed to yet again improve the shelf life of our claims across all schemes. i.e. the average time taken to resolve a claim has fallen as is shown in the chart on page 12 of this report. We are continuing to do our utmost to improve these ratios as not only does it improve the experience of the process for the claimant but it also saves costs in legal expenses.

From an operational perspective within the Authority 2009/10 has also seen some important issues move towards completion. Decisions have been taken in relation to the new location of both of our offices, in London and Harrogate, and we will be moving in early autumn.

These office moves will bring change to our ways of working which we have also been preparing for during 2009/10. The most fundamental change relates to space as we will, put simply, inhabit less of it and so have spent much of the year preparing our systems and our staff for the necessary adjustments to working practices. These changes have included the creation of an almost exclusively electronic claims environment and a secure document transfer system to enable safe transfer of data between the Authority and its stakeholders.

It is my hope that 2010/11 represents new beginnings for the organisation and I expect that as ever our staff will grasp those challenges and continue to deliver the high quality service we pride ourselves upon.



Tom Fothergill
Director of Finance

Claims

Scott Henning
Head of Clinical Claims

Steve Chahla
Head of Non-Clinical Claims

Our schemes

The Authority administers four schemes to handle liability claims against NHS organisations in England. Three cover clinical claims, while the fourth covers non-clinical incidents (typically, injury to visitors, patients and staff). A fifth scheme provides 'first party' insurance-type material damage cover for NHS organisations' property and associated expenses.

The **Clinical Negligence Scheme for Trusts** (CNST) is a voluntary membership scheme, to which all NHS trusts, Foundation trusts and Primary Care Trusts (PCTs) in England currently belong. It covers all clinical claims where the incident took place on or after 1 April 1995. The costs of meeting these claims are met through members' contributions on a 'pay-as-you-go' basis.

The **Existing Liabilities Scheme** (ELS) is centrally funded by the Department of Health and covers clinical claims against NHS organisations where the incident took place before 1 April 1995.

The **Ex-RHA Scheme** (Ex-RHAS) is a relatively small scheme covering clinical claims made against the former Regional Health Authorities, which were abolished in 1996. Like the ELS it is centrally funded by the Department of Health. It differs from our other schemes in that the Authority is the legal defendant in any action.

The **Liabilities to Third Parties Scheme** (LTPS) and the **Property Expenses Scheme** (PES), known collectively as the Risk Pooling Schemes for Trusts (RPST), are two voluntary membership schemes covering non-clinical claims where the incident occurred on or after 1 April 1999. Like CNST, costs are met through members' contributions on a 'pay-as-you-go' basis.

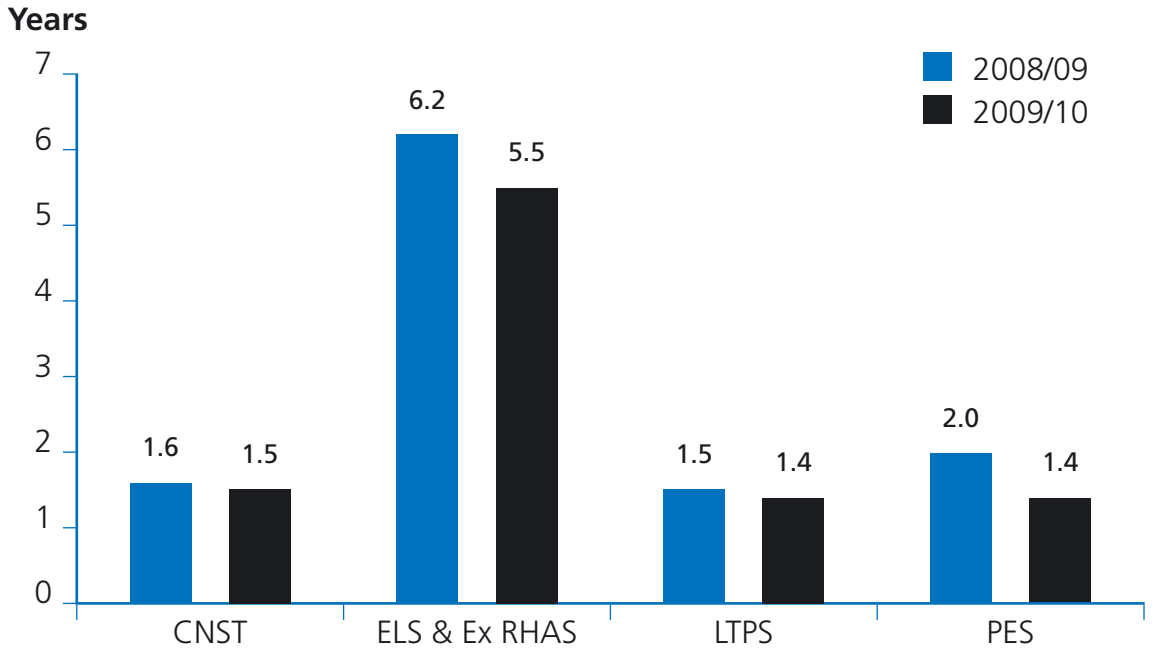
Avoiding litigation

Our remit when handling claims against the NHS, set out in our Framework Document, is to *"maximise the resources available for patient care…by defending unjustified actions robustly, settling justified actions efficiently, and contributing to…the number of… preventable incidents"*. We aim to settle claims as promptly as possible and we encourage NHS organisations to offer patients and staff explanations and apologies. We seek to avoid formal litigation as far as possible and our historical data shows that only about 4% of our cases go to court, including settlements made on behalf of minors that automatically require approval by a court.

Period between notification and resolution of claims

The graph below shows the average time taken, by scheme, to deal with claims handled in the past two years. The time is calculated from the date a claim is notified to the NHS organisation concerned, for ELS claims, or to the Authority for our other schemes, until the date damages are agreed or the claim is successfully defended or discontinued.

Period between notification and resolution of claims

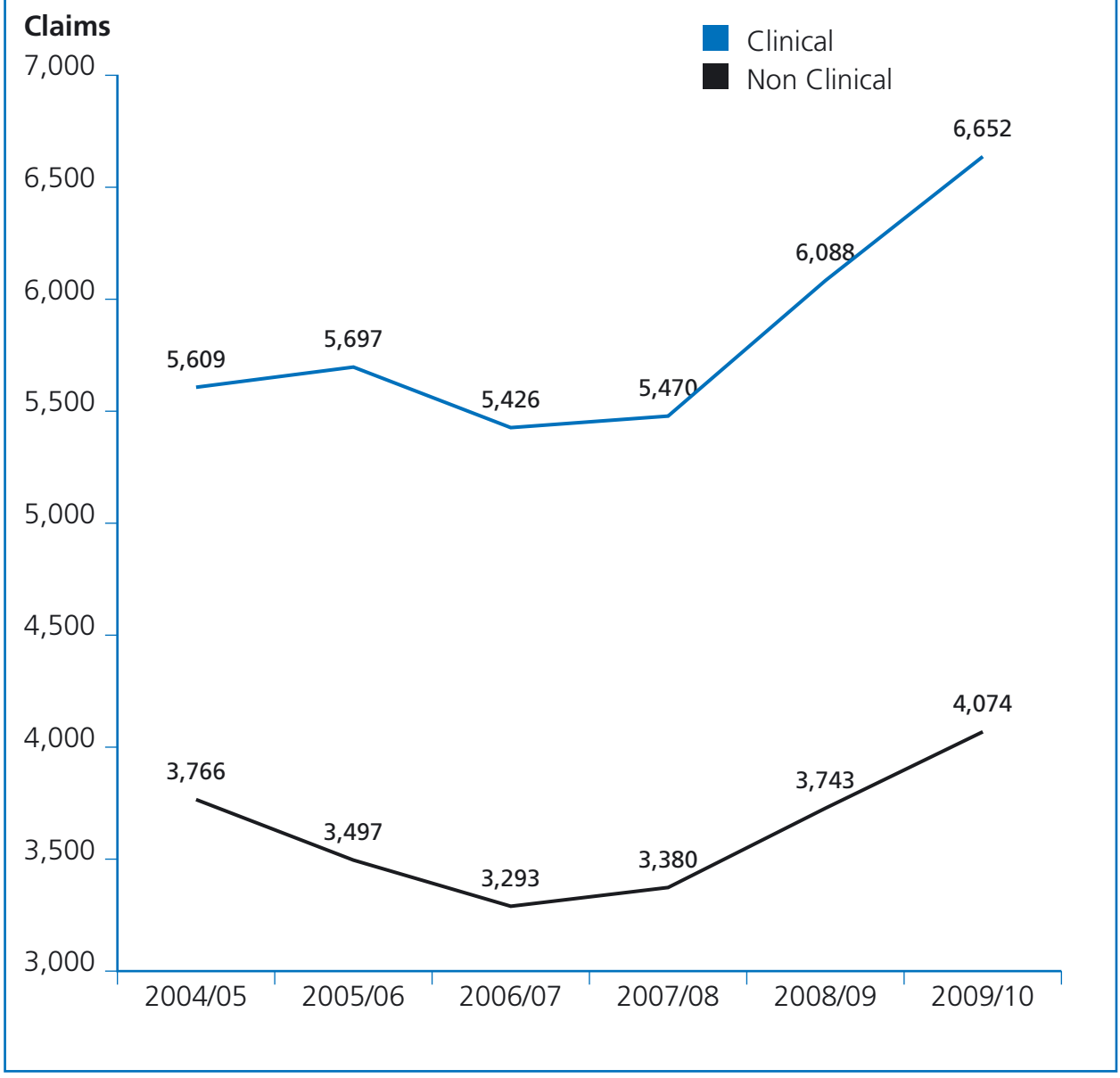


Speedier resolution equates to earlier settlements for patients, staff and visitors who suffer negligent harm, and result in savings in legal costs incurred by the NHS in defending unmeritorious claims. In 2009/10 there has been a reduction in the time to resolution across all five of our schemes, compared with 2008/09. The complexity of typical ELS and Ex-RHAS claims means that their time to resolution is invariably longer than CNST claims.

Claims received

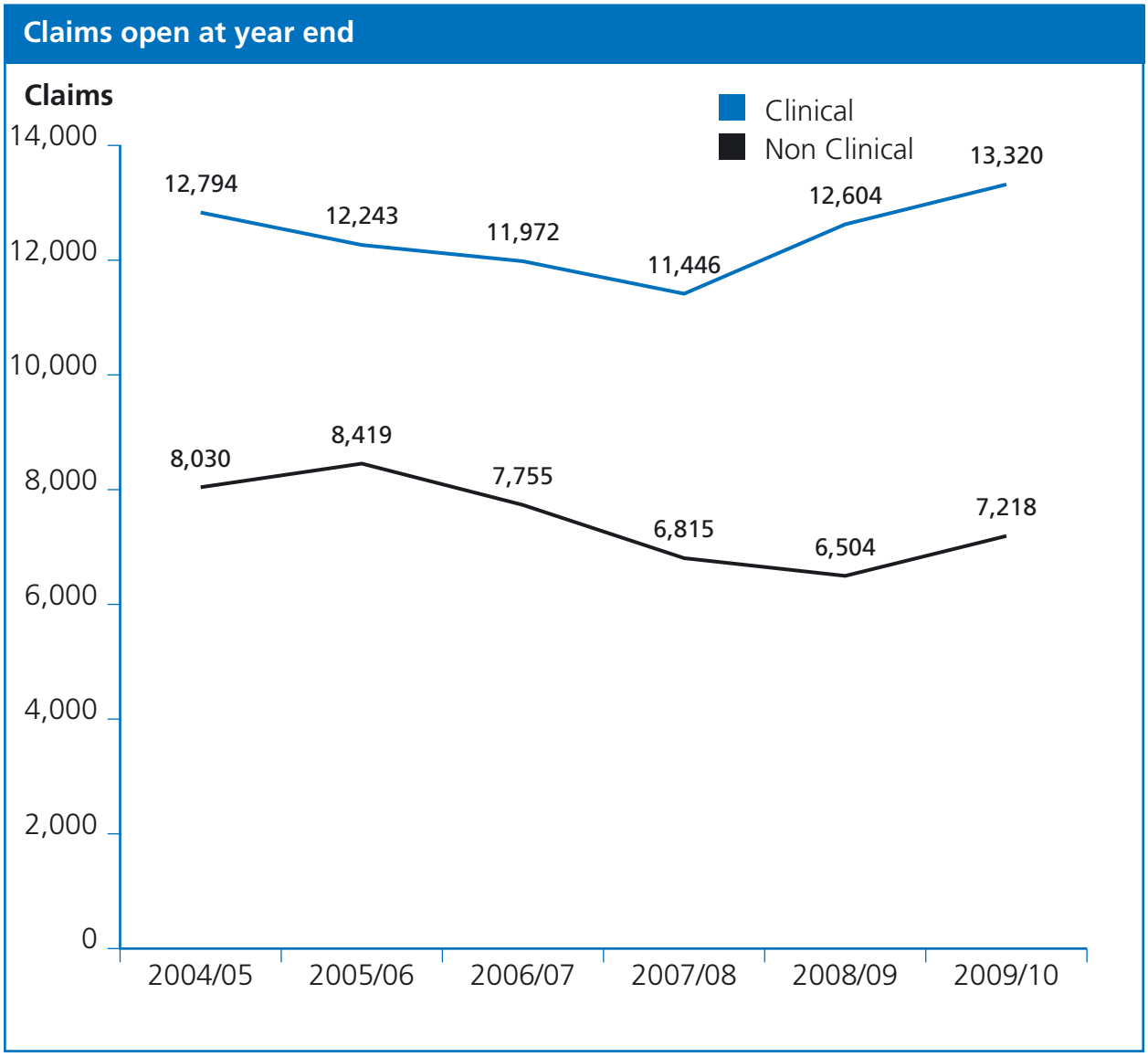
The number of claims received under our schemes has continued to rise in 2009/10. The graph below shows the numbers of claims and incidents reported in each of the last six years.

Number of claims received



Claims open at year end

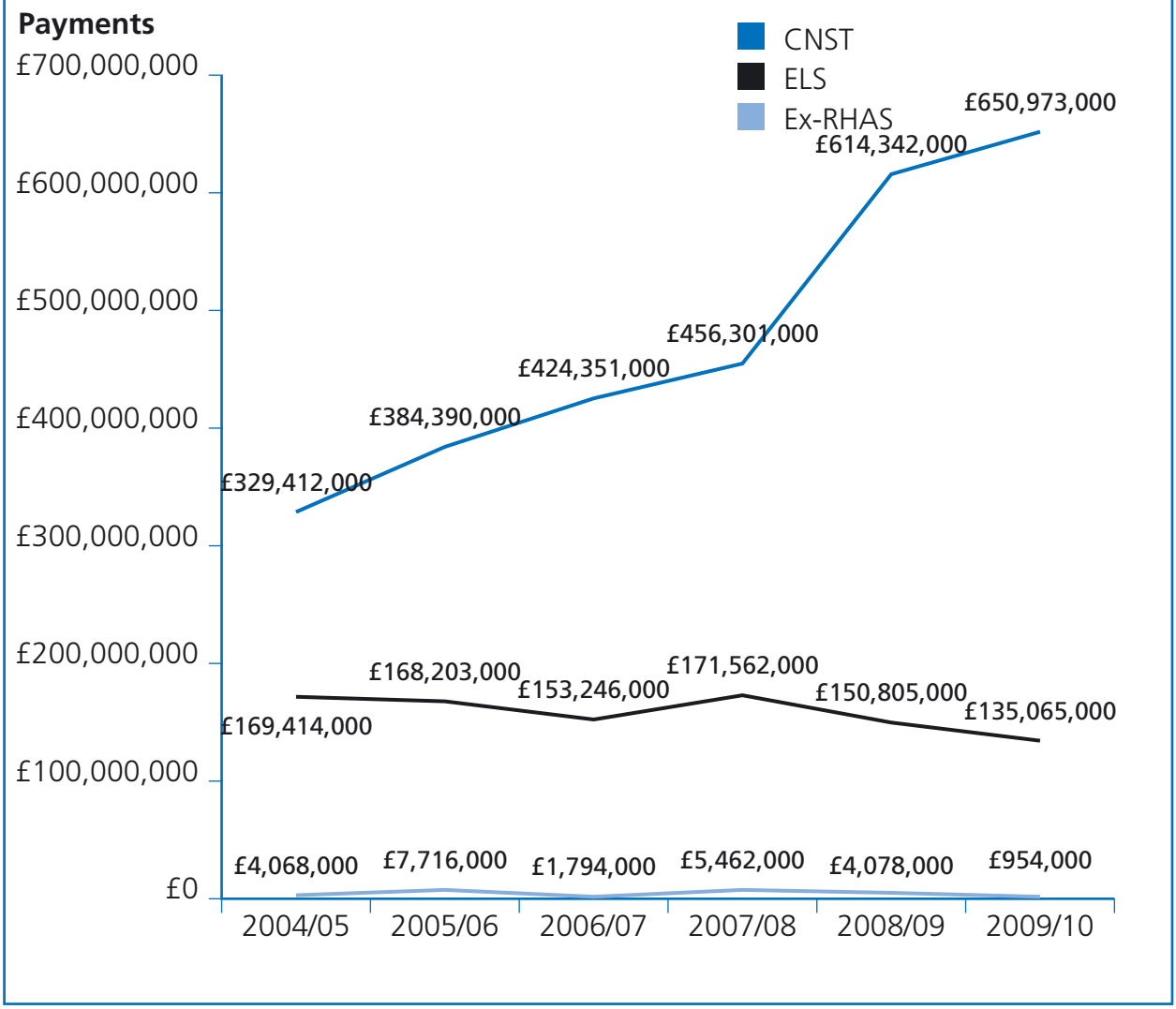
The graph below shows the number of claims open at the end of the past six financial years.



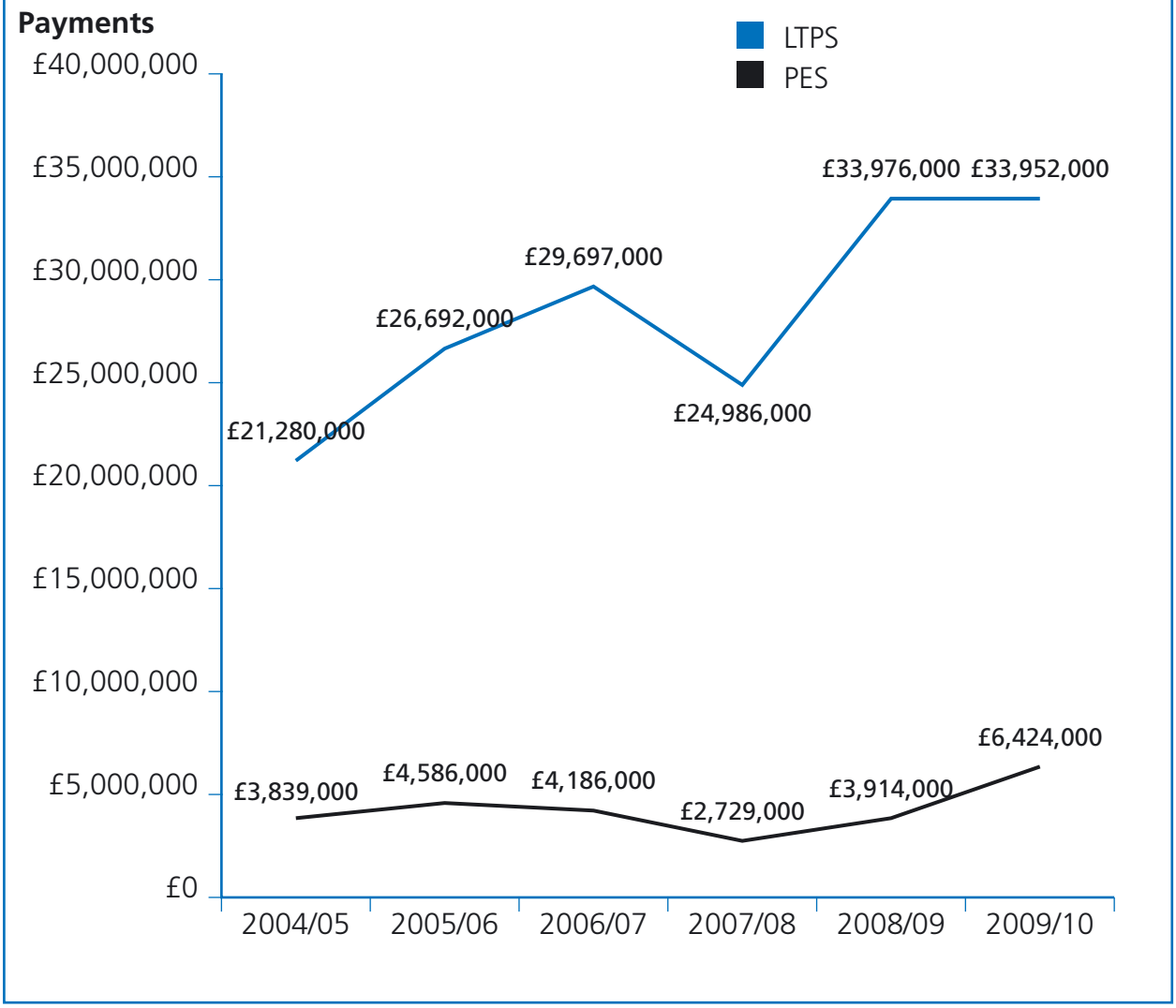
Payments

The two graphs below show the payments made on claims in each of the last six financial years.

Payments made clinical claims



Payments made non-clinical claims



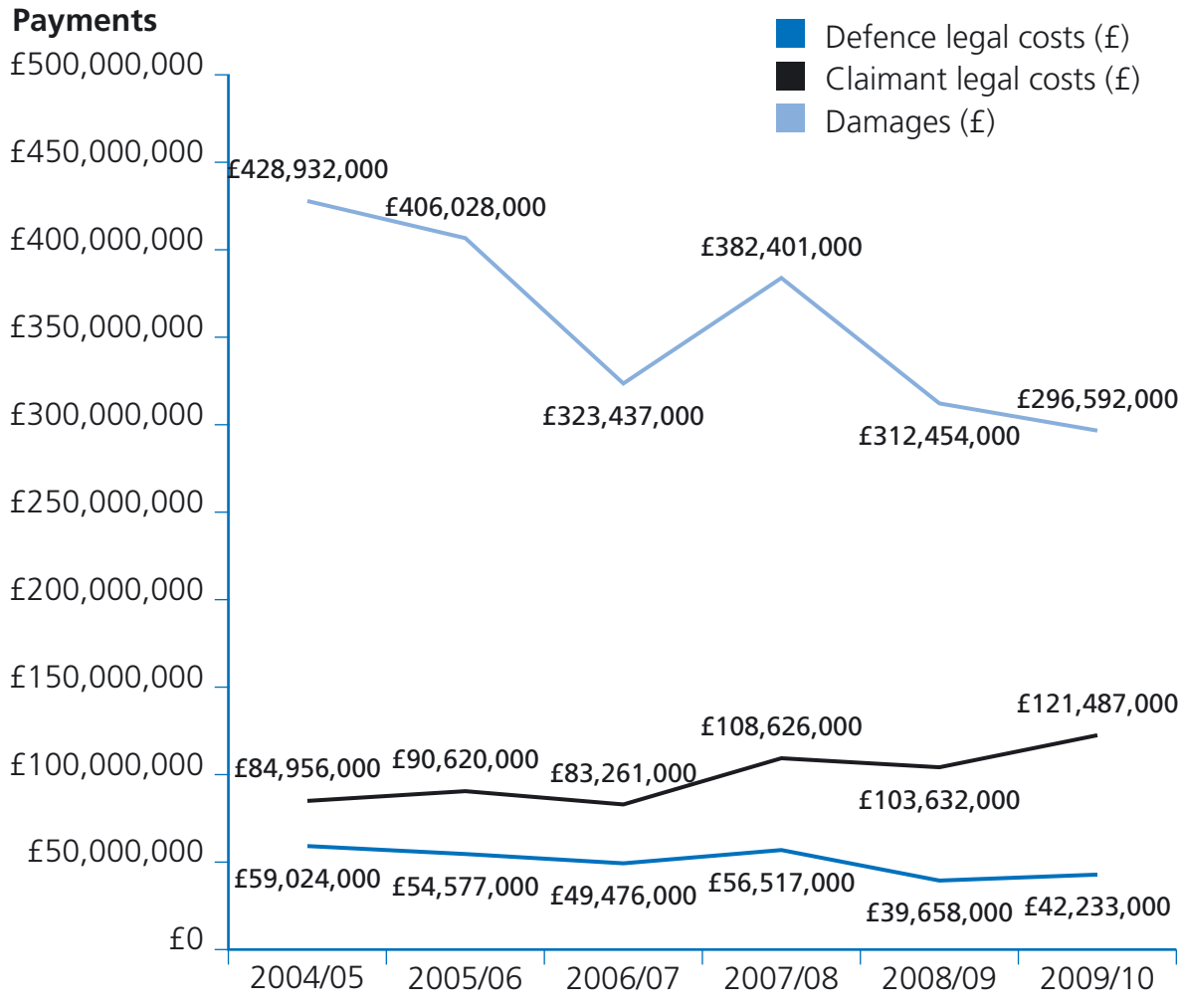
The amounts represent both damages paid to claimants (patients, staff and members of the public) and the legal costs incurred on both sides where these are met by the Authority, but exclude our reserves. The figures do not represent the value of claims made during the year, as many of the claims will not have been settled at year-end. The data in this section relate to payments made in relation to claims recorded over several years.

Legal costs

The costs claimed by claimant lawyers continue to be significantly higher than those incurred on our behalf by our panel defence solicitors. This remains a significant concern. Lord Justice Jackson, in the foreword to his review of civil litigation costs, identified that in certain areas of civil litigation *"…costs are disproportionate and impeded access to justice"*. We welcome many of the major recommendations made by Lord Justice Jackson, in particular his recommendation that claimant lawyers' success fees and after-the-event insurance premiums in matters funded under Conditional Fee Agreements (CFAs) should cease to be recoverable from the defendant. The availability of CFAs and the increase in their use by claimants in clinical claims has meant that claimants' costs are often significantly disproportionate to

the amount of damages paid, particularly in low-value claims. The chart below shows the relationship between damages paid to claimants and legal costs paid to claimant and defence lawyers in the clinical negligence claims closed by us since 2004/05. In 2009/10, we paid over £163m in total legal costs against these claims, of which over £121m (74% of the total costs expenditure) was paid to claimant lawyers. These figures cannot be equated with the figures for total claims expenditure in 2009/10 because they relate only to claims closed during the year. This is because it is only possible to provide meaningful data on the ratio between costs and damages when a claim has been closed and all the related payments have been made.

The cost of clinical claims



The figures in the graph do not include claims where damages were not paid to the claimant, i.e. where no liability was established.

Periodical payments

Periodical payments are damages settlements which include payments made on a regular basis, usually throughout the claimant's life, in place of the traditional single lump sum to cover all future needs. We continue to encourage their use when appropriate, as we consider them to be the fairest method, both for claimants and the NHS, of settling most, if not all, high value personal injury claims, where future costs are significant. At 31 March 2010, we were making periodical payments in 805 cases, compared with 659 at 31 March 2009 and 548 at 31 March 2008. The provisions for periodical payments as at 31 March 2010 total £1,886,553,690.

The adoption by the Court of Appeal of the Annual Survey of Hours and Earnings (ASHE) in place of the Retail Price Index (RPI) as the appropriate index used to annually uplift future care costs continues to have a significant impact of the cost of periodical payments. ASHE 6115, the measure associated with the earnings of care assistants and home carers, is now routinely used to uplift the cost of future care in catastrophic injury cases.

Overall this has been another demanding year for the Authority and our staff continues to rise to the challenges with resolve and dedication.

Important cases for the NHS in 2009/10

John Mead
Technical Claims Director

Very few claims managed by the Authority reached the higher courts during the year under review, which means that most of the following reports involve first instance decisions. Some will proceed further, but all are of significance for the NHS.

Rabone v Pennine Care NHS Trust

This was a decision of Mr Justice Simon in the High Court on 23 July 2009. The circumstances of the case were tragic: Melanie Rabone was an informal adult psychiatric patient who, whilst on home leave, committed suicide by hanging herself from a tree in a public park. The trust accepted that it had been negligent to grant such leave. On that basis, her estate's claim in negligence had been settled.

Melanie's parents, however, also lodged a claim in their own right under Article 2 of the European Convention on Human Rights (right to life). They maintained that the trust was in breach of its obligation to take measures to protect Melanie's life.

The judge distinguished the decision in *Savage* (see page16 of our 2009 Annual Report), which involved a detained patient, holding that there was no breach of the obligation laid down by the House of Lords in that case. Further, there was no immediate risk to life from the trust's perspective and no failure to have a system for assessing the risk of suicide in psychiatric patients. In addition, the parents were not in law "victims" for the purposes of bringing a Human Rights claim: the negligence claim had already been settled and there was no breach by the trust of any substantive obligation under Article 2.

For these and other reasons, the Human Rights claim failed. Had it succeeded, the judge held that damages would have been just £1,500 per parent.

This was a very important victory for the NHS, albeit arising from an extremely sad case, because the judgment distinguishes clearly between voluntary and detained patients. The duty towards the latter is understandably higher. However, the ruling has been appealed and the case is scheduled to be heard in the Court of Appeal in May 2010.

Farraj v King's Healthcare NHS Trust and Cytogenetic DNA Services Ltd. (CSL)

Mr and Mrs Farraj were Jordanians who both carried a gene which can cause BTM, a disabling blood disorder. When Mrs Farraj was pregnant for the third time she was advised by her local consultant to undergo DNA testing. A sample was therefore taken and sent to King's, who decided that it needed to be cleaned and increased in size so that testing could be performed. King's sent the sample to CSL, a reputable independent laboratory, who worked on the sample and returned it to King's about a month later. King's then undertook the test and advised the Jordanian obstetrician that the foetus did not have BTM. Sadly, the baby was nevertheless born with BTM – it emerged that the sample had been of maternal rather than foetal material. The High Court held CSL to be two thirds to blame in negligence and King's one third. King's appealed.

On 13 November 2009, the Court of Appeal ruled that CSL was 100% to blame, thus exonerating the trust. The arrangement between King's and their independent contractors was that the trust was entitled to assume that the returned sample was satisfactory unless advised to the contrary. Even though a scientist at CSL entertained doubts about the sample, these were not conveyed to King's. Further, contrary to the claimants' assertion, the NHS did not owe them a non-delegable duty of care on the facts: they had never been admitted to King's for treatment, and indeed remained in Jordan throughout.

This ruling demonstrates that the NHS is, in certain circumstances, able to rely upon the expertise of reputable independent contractors.

Equal pay and age discrimination

The Authority continued to manage equal pay claims on behalf of NHS bodies in England, and indeed from 29 May 2009 was asked by the Department of Health to extend this remit to include age discrimination cases. So far, numbers of claims in the latter category are very small.

It is important to repeat what previous annual reports have stressed, namely that both the Department and the Authority are fully committed to the concept of equal pay, which has been a legal right for almost forty years. The problem for the NHS is that there have been very few rulings of the higher courts to date on its pay arrangements, which means that key issues have remained unresolved. The Authority is very keen that test cases are heard as quickly as practicable, thereby enabling us to consider outstanding claims on their legal merits.

Fortunately, considerable progress was achieved during the year on a number of test issues. There has been no appeal against the Employment Tribunal's April 2009 ruling in *Hartley v Northumbria Healthcare NHST, Secretary of State for Health and Others*, which means that Agenda for Change (AfC), the NHS job evaluation scheme implemented in October 2004, is regarded judicially as complying fully with anti-discrimination legislation and not incorporating alleged previous discriminatory practices.

As at 31 March 2010, there were some 6,000 equal pay claims outstanding against NHS bodies in England. That represents a reduction of 50% in a year: many were withdrawn following the *Hartley* ruling. Scotland now has more such claims than England, although these are not so far advanced through the tribunal system.

Two other rulings on significant test issues were made by the Newcastle Employment Tribunal in 2009/10:

Hatch v Basingstoke and N. Hampshire NHS Foundation Trust; McGarry v University Hospitals of Morecambe Bay NHS Trust

This decision was handed down on 16 March 2010. The tribunal held that an individual who, in the post-AfC period, succeeds in an equal value claim in respect of the pre-AfC period (i.e. prior to 1 October 2004) is not entitled to the pay protection and/or higher point of assimilation to AfC which she (or he) would have enjoyed had the claim succeeded before 1 October 2004. The tribunal expressly declared this to be a test ruling, and accordingly if there is no appeal, significant numbers of claims nationwide will fail.

Jones v Blackpool, Fylde & Wyre Hospitals NHS Foundation Trust; Harewood v Pennine Care NHS Trust; Looker v Halton & St. Helens PCT

These linked cases all centred upon the effect of NHS reorganisation on the time within which an individual is permitted to bring an equal pay claim.

The tribunal held that where a trust (or PCT) is dissolved by statutory instrument, that time is only six months. However, if the change in status is to a foundation trust, the relevant period is the standard six years (assuming that the claimant remains employed by the new trust). This is a welcome clarification of the law, which will assist in the resolution of many other claims.

Risk management

Alison Bartholomew
Risk Management Director

One of the roles of the Authority is to encourage NHS trusts and independent sector providers of NHS care to improve their clinical and non-clinical risk management practices. This responsibility, aimed at improving the safety of NHS patients and staff, is met mainly through the provision of risk management standards, based on identified causes of claims, against which organisations are assessed. In addition, the Authority provides ongoing support and training to organisations to assist them in achieving the standards.

Standards and assessments

There are separate risk management standards incorporating organisational, clinical and health and safety risks for each type of NHS trust and independent sector providers of NHS care. Each set of standards contains five individual standards: Governance; Competent & Capable Workforce; Safe Environment; Clinical Care; Learning from Experience. In addition, there are separate clinical risk management standards for organisations providing maternity services, also with five standard areas: Organisation; Clinical Care; High Risk Conditions; Communication; Postnatal and Newborn Care.

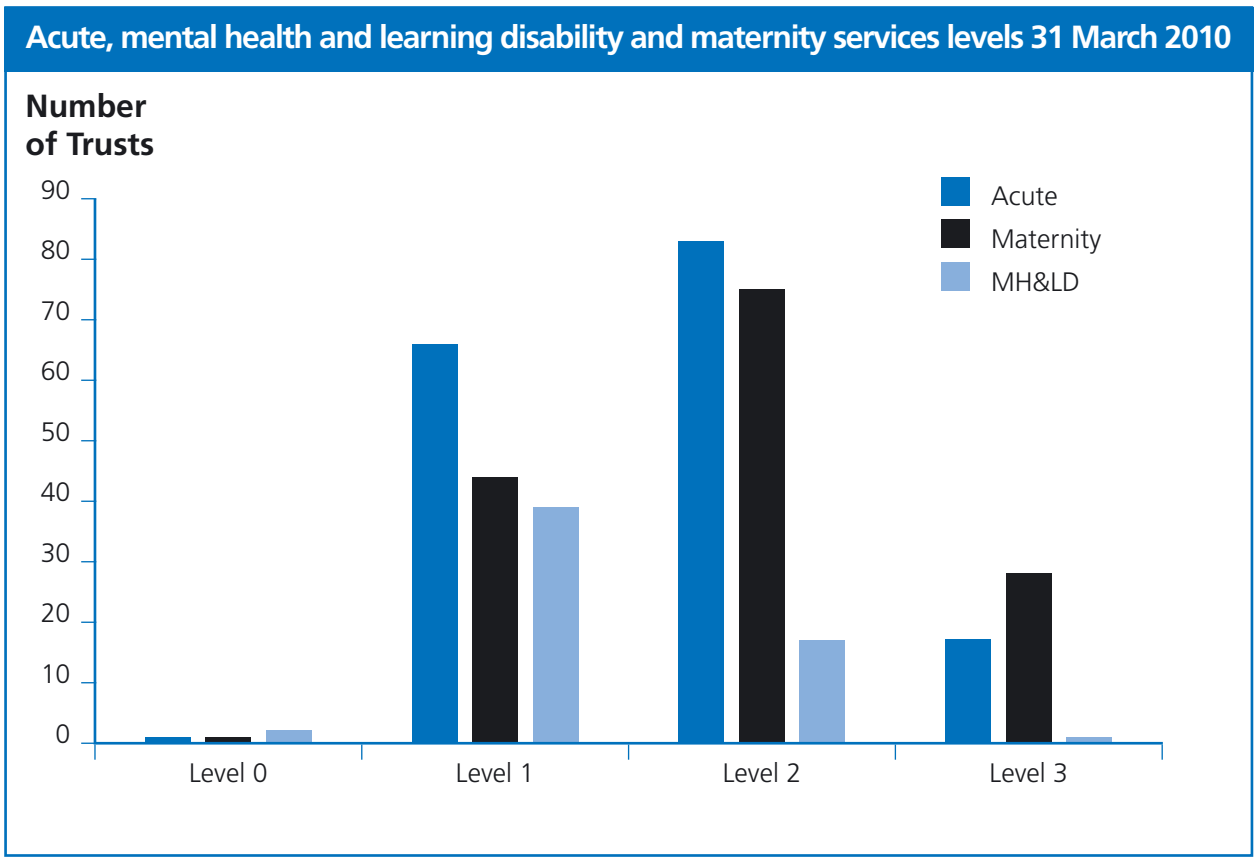
Within each standard, there are ten equally weighted criteria or risk areas. Each risk area is addressed through an ongoing programme of assessment at three distinct, progressive levels:

- Level 1 – documentation (policy)
- Level 2 – implementation (practice)
- Level 3 – monitoring and improvement (performance).

To achieve compliance, organisations must pass at least 40 out of the 50 criteria with no fewer than seven passes in any one standard. NHS trusts receive increasing discounts, ranging from 10% – 30%, on their contributions to our risk pooling schemes as they progress from Level 1 to Level 3. The results of assessments are published on our website in Factsheet 4 on a monthly basis, together with copies of assessment reports.

During 2009/10, a total of 229 assessments were carried out: 141 (61%) at Level 1, 72 (31%) at Level 2 and 17 (8%) at Level 3. At the end of the year, 60% of acute trusts, 31% of mental health and learning disability trusts and 70% of maternity services had achieved Level 2 or 3, as illustrated in the chart below.

Acute, mental health and learning disability and maternity services levels 31 March 2010



All ambulance trusts are currently at Level 1 in the standards. Only a comparatively small number of the PCTs providing clinical care are subject to a mandatory assessment on the basis of risk, although all PCTs providing healthcare may choose to be assessed, and at the end of 2009/10 73 PCTs had a current assessment level, nearly all at Level 1. Similarly, the assessment of independent sector providers of NHS care is voluntary and four had a current Level of either 1 or 2 at the year end.

All the Authority's standards are subject to ongoing review and an annual update to ensure that they remain relevant and robust. Other than the maternity standards which were released in March 2010, all the standards manuals for 2010/11 were published in January 2010. In addition to the manuals, a range of tools are provided to assist organisations in achieving compliance with the standards. These include a handbook containing guidance and reference sources in support of the standards, an electronic evidence template to enable organisations to conduct a self-assessment and to accompany evidence submitted for assessment, frequently asked questions and answers, and template documents to assist organisations in drafting local policies to manage risks.

A post assessment questionnaire, designed to inform the future development of the processes behind the risk management programme was sent to all organisations assessed during the year. The responses received have included practical suggestions for further improvement, some of which have been implemented.

During the year an exercise was undertaken to identify aspects of the standards and assessments for review in 2010/11. These include the risk areas covered by the standards, frequency and length of assessments, and the value of risk management discounts from scheme contributions. In addition, a new group comprising senior representatives from acute trusts will be established to provide the Authority with advice on the strategic direction of its risk management programme.

Education

Ten workshops were held for maternity services during May and June, and were attended by representatives from 143 (97%) of eligible organisations. Three workshops for mental health and learning disability trusts were held in June and one for ambulance trusts in July. In addition, a total of 28 workshops, each typically for twelve delegates from all types of NHS trusts within each Strategic Health Authority area, were delivered between June and September 2010. Again, all these events were well attended.

The delegate evaluation of all events was overwhelmingly positive, with 495 of the 528 attendees who responded (94%) indicating that they were 'likely' or 'highly likely' to use the information/knowledge gained, and 491 (93%) responding that they were 'likely' or 'highly likely' to recommend a similar event to others.

The Authority now offers organisations an informal visit by their assessor to provide focused support and guidance in relation to our standards each year, rather than just in the year(s) between assessments. In 2009/10, 367 (79%) of eligible organisations took advantage of this opportunity.

Partnership working

The Authority continues to work with a number of other bodies in a variety of ways, as illustrated below.

Safety

By sharing our unique claims experience and knowledge, we are able to make a positive contribution towards improving patient safety and the safety of NHS staff. We continue to liaise and work closely with other bodies on these important issues, including the National Institute for Health and Clinical Excellence (NICE), the National Patient Safety Agency (NPSA), various professional bodies such as the Royal College of Obstetricians and Gynaecology (RCOG), the NHS Security Management Service (NHS SMS) and Health and Safety Executive (HSE).

In response to the increase in claim numbers and payments, the Authority introduced a new risk management initiative towards the end of the year which aims to ensure that organisations are learning from their own claims and, where appropriate, the knowledge gained is shared with the wider NHS with the objective of reducing the number and severity of incidents giving rise to claims. Working in partnership, our clinical panel solicitors have been asked to prepare a risk management report on all new CNST claims which will be shared with the relevant NHS trust for action and used by the Authority to ensure that lessons are learned.

A report on a joint project carried out by our risk management and claims teams to examine 100 stillbirth claims was published in July 2009. The report provides a detailed analysis of the claims, discusses links to our maternity standards, and considers whether any of the risks identified should be included in future versions in the standards. As a result, a pilot criterion on multiple pregnancy and birth has been included in the 2010/11 CNST maternity standards. During 2010/11, the Authority will undertake an exercise to closely examine the information on maternity claims on its database to facilitate learning to improve the safety of mothers and their babies.

The Authority is a partner organisation supporting The King's Fund Safer Births programme. The goal of the programme is to enable frontline professionals working in maternity units to improve the safety of their services and thereby improve the outcomes of care during labour and birth for mothers and babies.

Reducing bureaucracy

The results of the Authority's assessments were used by the Care Quality Commission (CQC) to inform the process for registering NHS healthcare providers by 1 April 2010 and developments continue to improve the links between the work of the Authority and CQC.

We made a significant contribution again this year to the Planned Collaborative Reviews (previously Risk Summits), held within each Strategic Health Authority area to review local NHS providers, assisting with the development of the framework for the events, submitting assessment information, and participating at most of the events.

To coincide with the launch of The Information Standard, the Authority announced that it will accept accreditation against the Standard as evidence of compliance with its own requirements in respect of patient information.

Risk management services

The Authority has a contract with Det Norske Veritas Ltd (DNV) to develop and maintain the risk management standards, conduct assessments, and provide education services. DNV provided an excellent service during the year, meeting or exceeding most of their agreed Key Performance Indicators. A report on activities and findings in respect to their work for the Authority during 2009/10 will be produced by DNV and published on the Authority's website.

Family Health Services appeals

Lisa Hughes
Appeals Manager

The Secretary of State for Health in exercise of the powers conferred in relevant sections of the National Health Service Act 2006 gives Directions to the Authority to discharge certain "appellate and other functions" in connection with the decisions and functions of PCTs. These functions are performed by the Authority's Family Health Services Appeal Unit, which is based in Harrogate.

The total number of cases received and determined was marginally lower than the same period last year, which had been an exceptional year, but was still higher than historical levels. The mix of case types varies from year to year; the number of pharmacy appeals received remained the highest work stream. Additional statistics to the Unit's work are available on our website.

Dispute Resolution

The dispute resolution procedures are those contained in regulations relating to primary care contracts. The relevant regulations are:

- The NHS (General Medical Services Contracts) Regulations 2004
- The NHS (Personal Medical Services Agreements) Regulations 2004
- The NHS (General Dental Services Contracts) Regulations 2005
- The NHS (Personal Dental Services Agreements) Regulations 2005
- The NHS (Local Pharmaceutical Services etc) Regulations 2006
- The General Ophthalmic Services Contracts Regulations 2008

Those disputes arising under the General Medical Services and Personal Medical Services Regulations once again became the main source of applications for dispute resolution, with current market rent cases being the main area of dispute as is the case most years. However this year this particular area of work doubled with twice as many incoming and determined applications relating to the current market rent of GP Premises. Also during this financial year the Authority was faced with having to review its procedures for seeking expert advice upon current market rent valuations. This led to a significant delay in dealing with these disputes and led to a lower than usual percentage of those types of cases meeting the Authority's Key

Performance Indicator for the same period last year. We also had concerns that delays were being caused because local dispute procedures were not being followed before reference to National Level, and that this was adding confusion to the process. In response to this, in February 2010, the Authority issued a Best Practice Protocol for local dispute resolution of Current Market Rent Cases and feedback suggests this has been well received by both PCTs and contractors and their representatives.

Otherwise both medical and dental disputes raised the usual mix of disputes from remuneration, including claw-back of monies, payment of Quality Outcomes Framework monies, to termination of contract. The Authority determined 76 medical disputes (including current market rent cases) and 20 dental disputes on the papers, with only two requiring an oral hearing. No disputes relating to the General Ophthalmic Services Contracts Regulations were properly lodged with this Authority.

As always determination of these disputes may be subject to legal challenge by way of judicial review. One dental claimant was given permission by the Courts to seek a Judicial Review of a dental determination made in a previous year. There have been no other applications to the Court this year.

Appeals

Having increased by 50% the previous year appeals received in accordance with the NHS (Pharmaceutical Services) Regulations 2005 decreased by 25% compared to the same period last year. This is still historically high and can be partly attributed to a high number of appeals received in the third quarter of the year from pharmacists seeking to change their "core" opening hours during the Christmas period.

A three year comparison of the number of appeals received and determined is shown below.

Year	2007/08	2008/09	2009/10
Appeals received	362	515	405
Appeals closed	337	512	442

Of those pharmacy appeals that resulted in a substantive determination (e.g. were not withdrawn or summarily dismissed) 30% were allowed.

Determination of pharmaceutical appeals may be subject to legal challenge by way of judicial review; however no applications were made to the Court in this regard this year.

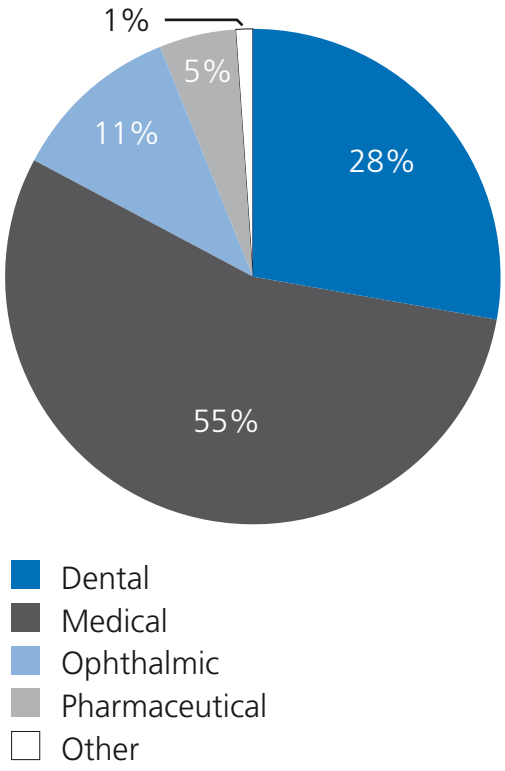
Fitness to Practise: PCT notifications and checks

The National Health Service (Performers Lists) Regulations 2004 currently apply to the medical, dental and ophthalmic professions, with similar provision for pharmacists in separate regulations. The Authority received notification of 97 suspensions, with 70 still in force as at 31 March 2010. The Authority also received notification of 1,114 other local decisions in respect of performers under the fitness to practise procedures.

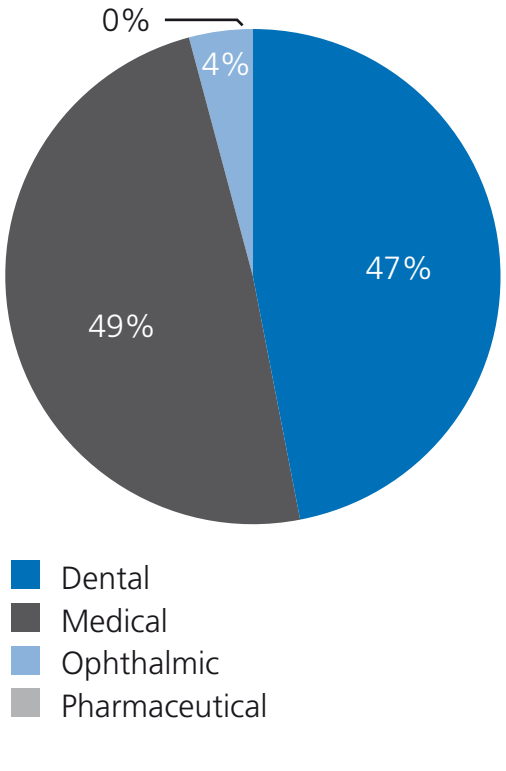
The Authority holds details of the notifications on a database for the purpose of responding to PCT requests for checks on performers. During the year 14,413 requests were processed. The secure on-line checking system which was rolled out during 2008/9 provided immediate clearance of 98% of checks with the remaining 2% having to be referred to the Authority for further investigation.

Following decisions of the Tribunal Service, and predecessor bodies, there are currently 83 (62 medical, 16 dental and 5 ophthalmic) performers who have been nationally disqualified from practising in NHS primary care.

2009/10 Restriction checks by profession



2009/10 Notifications (other than suspension) by profession



Our people

David Bell
Director of Human Resources

Elsewhere in this report, the figures show that we have been handling more work as an organisation with no corresponding increase in numbers of people. This reflects the significant efforts made by everyone at the Authority to improve the efficiency and effectiveness of our processes, whilst maintaining the same high quality services to the NHS. The coming year will see this drive continue, with a move to more remote working as we relocate our London and Harrogate operations to new premises.

We were disappointed not to be awarded the Investors in People standard during the year. Although we met the requirements of the standard in around 70% of the assessed areas, the assessment highlighted our development needs as an organisation and we have been taking steps to address these.

An organisation chart is available on our website.

Creating a community of leaders

Almost all of our managers have been involved in a programme to improve and develop our leadership skills and to highlight the shared responsibility all managers have in demonstrating and delivering leadership in our organisation.

In support of this, we have been part of an innovative talent management programme with six other Department of Health sponsored organisations, the Hubbub, which it is hoped will continue in 2010 and beyond. The programme uses the NHS Leadership Qualities Framework to identify talented individuals with the potential to move to a more senior post and has its own presence on the internet, hubbub.org.uk. 13 of our employees applied to take part, both managers and non-managers, and they all took part in a 360° assessment, with feedback from a trained facilitator, and a day-long assessment and development centre. Two employees have gone onto an accelerated leadership development programme and the rest will receive tailored development opportunities.

Equality and diversity

During the year almost all our employees took part in very well received and challenging workshops on diversity issues and we abolished our default retirement age as we took on responsibility for managing age discrimination claims for the NHS in England. The Board continues to monitor a wide range of diversity statistics at its regular meetings, which are available on our website. We will review our Equality Scheme in 2010.

We had no active equal pay claims on 31 March 2010.

Good corporate citizen

The model developed by the Sustainable Development Commission (corporatecitizen.nhs.uk) for the NHS, was developed and relaunched during the year and now covers the following six key areas:

- Travel
- Procurement
- Facilities management
- Workforce
- Community engagement
- Buildings

We continue to take our responsibilities as a corporate citizen seriously and updated our action plan, which you can see on our website, during the year. The Board receives regular updates on our impact as an organisation on the environment, which you can also access online, and we have set ourselves a target for mileage, which we are unfortunately failing to meet. Our work in this area is led by Professor Rory Shaw, a non-executive director.

The move from our current premises in London and Harrogate sets us challenging targets in terms of office space and our IT team has already developed innovative solutions to improve and expand the opportunities for remote working, with consequent reductions in the environmental impact of our activities and increased flexibility for our employees.

Human Rights Act Information Service

The Authority's quarterly Human Rights Act newsletter is now produced by 1 Crown Office Row, a set of barristers' chambers, on the Authority's behalf and is available on our website. Our database of human rights cases of particular interest to the NHS is available free of charge through our website.

Professional advisers

The Authority maintains two panels of solicitors, the first specialising in clinical claims and the second in non-clinical claims. Current membership is given below. The clinical panel was reviewed during 2007/08 and the non-clinical panel in 2008/09.

Clinical negligence claims: panel of solicitors

Barlow Lyde & Gilbert LLP
Beachcroft LLP
Bevan Brittan LLP
Browne Jacobson LLP
Capsticks LLP
Hempsons
Hill Dickinson LLP
Kennedys Law LLP
Ward Hadaway
Weightmans LLP

Non-clinical claims: panel of solicitors

Barlow Lyde & Gilbert LLP
Browne Jacobson LLP
Hill Dickinson LLP
Kennedys Law LLP
Veitch Penny
Ward Hadaway
Weightmans LLP

Actuaries

Lane, Clark & Peacock

Advisory groups

Professional Advisory Panel and Policy Advisory Group

These advisory groups, which exist to provide clinical advice and support in relation to the Authority's risk management standards and claims schemes, did not meet during 2009/10. There are plans to replace them with a risk management forum during 2010/11.

Board members

The Authority is led by a Board, made up of executive (full-time employees) and non-executive members, chaired since 1 April 2007 by Professor Dame Joan Higgins. The non-executive directors are appointed by the NHS Appointments Commission. All executive directors have been appointed through open competition and in accordance with the Authority's recruitment and selection policies and Department of Health guidance. All current executive director posts are permanent appointments. Full details of directors' remuneration are given in the remuneration report on page 39.

Board

Professor Dame Joan Higgins DBE

BA (Hons), Diploma in Social Administration, PhD
Chair

A social scientist by background; latterly Professor of Health Policy at the University of Manchester; a non-executive director of NHS organisations for over 30 years; formerly chair of Manchester Health Authority, Manchester FHSA and the Christie NHS Trust and Regional Chair of the NHS in the North West; also Chair of the QC appointments panel and a member of the House of Lords Appointments Commission, awarded the DBE in 2007 for services to healthcare.

Stephen Walker CBE

MA, LLB (Hons), FCII, JP
Chief Executive

Formerly UK Claims Manager in the insurance industry; accredited mediator; member of the Chief Medical Officer's working parties which produced *Organisation with a Memory* and *Making Amends*; member of the Clinical Disputes Forum and the National Patient Safety Forum.

Tom Fothergill

BA (Hons), CPFA
Director of Finance

A qualified accountant with previous NHS experience with a London based Mental Health & Community Services Trust and prior to that a wide range of financial experience gained whilst training and working in local government; having joined the Authority as Financial Controller in 1997, has overseen the development of that function and now additionally responsible for IT, Human Resources, our FHSAU function in Harrogate and the day to day management of the claims functions.

Brian Capstick (until 30 November 2009)

MA
Non-Executive Member

Founder and Senior Partner of a solicitors' firm until April 2007; founded a diploma in clinical risk management in 1993 and the Association of Litigation and Risk Managers (ALARM), in 1994; published extensively on patient safety topics; regular speaker at conferences; currently Director of the London office of the European Society for Quality in Healthcare, a charity.

Keith Ford OBE

CPFA
Non-Executive Member

A qualified accountant with extensive NHS experience as Director of Finance and also Chief Executive; chaired the Healthcare Financial Management Association and served on two Ministerial Advisory Committees; retired September 2006; now Treasurer to King's College Hospital Charity and an Associate Non-Executive Director of Tower Hamlets PCT until March 2010; chairs the Authority's audit committee.

Professor Rory Shaw

BSc, MD, MBA, FRCP
Non-Executive Member

Medical Director of NorthWest London Hospitals NHS Trust; previously Chief Medical Officer at Royal Berkshire Hospital NHS Foundation Trust and Medical Director at Hammersmith Hospitals NHS Trust; major interest in clinical quality and patient safety; the founding Chairman of the National Patient Safety Agency in 2001; clinical and academic area is respiratory medicine in which he has published extensively on tuberculosis, asthma and lung fibrosis.

Nina Wrightson OBE

Dip SH, LLB (Hons), CFIOSH
Non-Executive Member

Latterly Risk Management Director for Northern Foods plc; past President of the Institution of Occupational Safety and Health; currently Chairman of the British Safety Council, a non-executive Director of Yorkshire Ambulance Service NHS Trust, Chairman of Complywise Ltd and a Public Member of Network Rail.

There were six Board meetings in 2009/10; attendance was as follows:

Board member	Meetings attended
Joan Higgins	6
Steve Walker	6
Tom Fothergill	6
Brian Capstick	3 out of 4
Keith Ford	6
Rory Shaw	6
Nina Wrightson	6

Management commentary

Statutory background

The NHS Litigation Authority is established under the *National Health Service Act 2006*.

These financial statements have been prepared according to an Accounts Direction issued by the Secretary of State with the approval of HM Treasury.

Main functions of the Authority

The Authority is a Special Health Authority and its primary function is to manage, on behalf of member trusts, claims arising from clinical negligence incidents post 1 April 1995 (the Clinical Negligence Scheme for Trusts or CNST). In addition, the Authority is responsible for managing clinical negligence claims against the NHS for incidents pre 1 April 1995 (the Existing Liabilities Scheme or ELS), clinical negligence claims against the former Regional Health Authorities (the ex-RHA Scheme) and the non clinical risks of member trusts with the exception of motor vehicle claims. The Authority is also responsible for promoting high standards of risk management throughout the NHS and certain appellate functions on behalf of the Department of Health.

Review of activities and performance against targets

During the year, the Authority's net Operating Costs amounted to £1,137.9 million, which represents a reported decrease of £255 million on the figure for the previous year.

The Authority's net Operating Costs are required to be managed within a Revenue Resource Limit (RRL) agreed with the Department of Health. For 2009/10 the agreed RRL was £1,144.6 million; thus an under spend of £6.7 million is reported.

The Authority is required to pay its creditors in accordance with the Better Payment Practice Code. The target is to pay creditors within 30 days of receipt of goods or a valid invoice (whichever is the later) unless other payment terms have been agreed with the supplier. Of relevant bills, 80.4%, representing 84.1% by value, were paid within the 30 day target which is a significant improvement over 2008/09.

The Authority is required to manage within its cash limits as agreed with the Department of Health. For 2009/10 the Authority had a revenue cash limit of £87.8 million which was utilised during the year thus reporting a break even position. Capital limits for the year were £440,000 with reported outturn at £437,000 showing an under spend of £3,000.

The balance sheet as at 31 March 2010 shows net liabilities of £15.066 billion. The global valuation recorded in the balance sheet recognises provisions that will crystallize in future years and will be funded by future contribution payments or departmental funding. This future income is calculated to fund annual outgoings, and in the case of the departmental funding is subject to parliamentary control. There is no reason to believe that this future funding, future parliamentary authority, and the contribution payments from members will not be forthcoming. It has therefore been considered appropriate to adopt a going concern basis for the preparation of these accounts. In addition, s70 of the NHS Act 2006 requires the Secretary of State to exercise his statutory powers to deal with the reported liabilities of this Special Health Authority if it ceases to exist.

These provisions relate predominately to clinical negligence claims which have either already been made or which are considered to have been incurred via treatment delivered by the NHS but yet to be reported as claims. Inevitably these claims will take time to progress to settlement and so these provisions are recorded using International Accounting Standard 37 (IAS 37) to give readers a clear indication of the likely value of these claims were they all made and settled today.

These, often misreported, provisions are essentially a valuation as at the 31st March 2010 of all of the clinical and non clinical liabilities of the NHS in England which are covered by the Schemes managed by the Authority should they all fall to be settled as at that point in time; i.e. if the Authority were to cease to exist, this is the estimated value of the liabilities which would need to be met by the NHS relating to treatment delivered up to the 31st March 2010.

Another key balance sheet movement is the change in cash balances held at the year end (£41.8 million compared to £29.6 million in 2008/09). All of the contribution schemes managed by the Authority are on a 'pay as you go' basis thereby minimising the impact on cash available for patient care in any given financial period although, inevitably, managing such schemes requires the Authority to take into account possible variations to planned expenditure for example where a case is concluded earlier than originally forecast by collecting sufficient contributions to cover eventualities which have an adverse impact on cash flow. During 2009/10 the Authority has increased its overall cash balance by approximately £12m. All cash balances are held within the Government Banking Framework; i.e. balances are not lodged in commercial accounts.

Key Performance Indicators (KPIs)

In addition to the above statutory financial targets, the Authority has agreed KPIs with the Department of Health, which are used to measure performance against business objectives in year.

For the claims functions these include ratios of defence and claimant legal costs to damages paid: we attempt to settle claims with minimum payments to third parties. There are also targets in relation to the shelf life of claims, the period the matter is open and managed by

the Authority. Performance in the year on all our KPIs was satisfactory. However, due to the adversarial nature of the claims against the NHS, the Authority does not publish the details as that might prevent the appropriate management of claims and allow opponents to use them as a bargaining tool in negotiations.There are other indicative statistics reported in the claims section of this Report and Accounts.

KPIs agreed with the Department of Health also exist in relation to the average time taken to settle family health services appeals from the date of notification to the date of settlement; performance during 2009/10 is shown below:

Regulations	Target time to settle (weeks)	% within target		Average time taken to settle (weeks)	
		2009/10	2008/09	2009/10	2008/09
Pharmacy regulations					
Summary	4	100%	100%	3	3
On the papers	15	98%	95%	11	13
Oral hearing	26	69%	85%	25	24
Performer lists regulations	15	100%	100%	8	7
Dispute resolution					
On the papers	15	83%	93%	13	12
Advice/hearing	26	8%	15%	52	40
GP registrars					
Assessments	4	100%	100%	2	2
Representations	15	100%	100%	9	9

There were two major factors that influenced whether we met our KPIs this financial year. Firstly for Pharmacy cases there was a significantly high level of incoming appeals during 2008/9 and this lead to a backlog in the first quarter of this financial year, particularly for those appeals to be considered at an oral hearing. Secondly following a Judicial Review judgement in the area of Current Market Rent Cases (which fall under Dispute Resolution) the Authority had to establish a new procedure for seeking external professional advice which resulted in a delay for those cases that were received during the intervening period.

Government Reviews

The Authority has again participated with all ongoing requirements of the Government's efficiency reviews.

During 2008/09 the Authority received approval from all relevant Government Departments for its main business activities to remain based in London recognising our heavy involvement with the legal environment which is predominately based around what is termed 'legal London'. Our commitment to the ongoing estates rationalisation programme across

Government means that our London offices will, during 2010/11, be relocated to an office sited upon the 'Government estate' rather than via our current private sector landlord.

The coming year

During 2010/11 the Authority has committed to six major objectives in support of our three strategic aims:

- Improving effectiveness and efficiency

  1 best value; the Authority will continue to work with the DH to ensure that financial and human resources are used in the most effective way and that all financial targets are closely monitored, amended where agreed and subsequently met by the year end.

  2 maintaining business continuity; our key challenge in this area will be the relocation of our London and Harrogate premises in 2010.

  3 delivering quality services; we will continue to develop and improve the quality and effectiveness of the services we provide to the NHS in England.

- Better risk management practices

  4 working for a safer NHS; learning from our litigation experience to improve patient safety and save NHS resources will continue to underpin our risk management work.

  5 working closely with our partners; we intend to create a new risk management forum with senior representatives from NHS organisations with a special interest in or knowledge of risk management to provide advice and guidance on the development and effectiveness of our risk management programme.

- Enabling change and innovation

  6 delivering for the NHS and responding to change; we will support the NHS with risk management and indemnity advice in support of new models of service delivery and changing priorities.

Other statutory disclosures

A register of interests is maintained by the Authority which details company directorships and other significant interests held by Board members. There are no interests logged on the register which have any bearing on the activities of the Authority. Access to the register is available by contacting the Chief Executive's PA at Napier House.

Audit Committee

The Authority's Audit Committee ensures that an effective system of internal control covering all risks is maintained. The Committee's duties include consideration of any matters concerning the external auditors, together with the adequacy of the Authority's internal audit arrangements. The committee's non-executive members in 2009/10 were Keith Ford (Chairman), Brian Capstick (until 30 November 2009) and Nina Wrightson. The committee met four times in 2009/10 and attendance was as follows:

Non-executive director	Meetings attended
Keith Ford	4
Brian Capstick	2 out of 2
Nina Wrightson	4

Risk Management Committee

Throughout 2009/10, the Risk Management Committee reported directly to the Board and was responsible for ensuring that all areas of risk to the Authority were managed appropriately. All functions within the Authority were represented by membership of the Committee which was chaired by Professor Rory Shaw, Non-Executive Director, who attended all three meetings.

Consultation with employees

The Authority consults with its employees on issues relating to information provision and consultation on health, safety and welfare at work by means of a Joint Negotiating Committee in partnership with Unison, which met six times during 2009/10.

Equality and diversity

The Authority is committed to ensuring that all employees and job applicants are treated fairly and openly and are not subject to unfair or illegal discrimination or bias. The Authority has integrated equality and diversity into its employment policies and embeds these values into its work. The Authority has an Equality Scheme.

Comments and complaints

The Authority received 7 complaints in 2009/10 (1 in 2008/09), excluding correspondence about the management of particular claims files.

Sickness absence

3.57% of working time was lost as a result of sickness during 2009/10 (2.42% in 2008/09).

Freedom of information

The Authority handled 208 (189 in 2008/09) requests for information under the *Freedom of Information Act 2000* in 2009/10, of which 98.1% (96.9%) received substantive responses within the 20 days prescribed by the Act and 100% (100%) were dealt with within 30 days.

Personal data related incidents

A small number of minor incidents, mainly involving paper mail, occurred in 2009/10. None of these incidents concerned the loss or inappropriate disclosure of confidential patient information. During the year, the Authority introduced new systems to improve the management of information risks, including a secure electronic document transfer system to minimise the use of paper mail.

Pension liabilities

The Authority's employees are covered by the provisions of the NHS Pension Scheme, details of which are given in notes 1.11 of the accounts. Pension liabilities in respect of Board members are given in the Remuneration Report.

Audit services

The Comptroller and Auditor General has provided the Authority's audit services at a cost of £85,000 for the current year. No non-audit work was undertaken.

The Authority has confirmed that there is no relevant information of which the auditors are unaware. The Accounting Officer has taken all the steps he ought to take to ensure that they are aware of relevant audit information and the Accounting Officer has taken all the steps he ought to establish that the entity's auditors are aware of the information.

Remuneration report

The Authority has a Remuneration and Terms of Service Committee, made up of all the non-executive directors of the Authority, which considers pay and benefits for employees not covered by the national Agenda for Change arrangements, and makes recommendations to the Department of Health based on the Department's *Pay Framework for Very Senior Managers in Strategic and Special Health Authorities, Primary Care Trusts and Ambulance Trusts*.

The Committee met three times during the year. Attendance was as follows:

Non-executive director	Meetings attended
Joan Higgins (Chair)	3
Brian Capstick (until 30 November 2009)	2 out of 2
Keith Ford	3
Rory Shaw	3
Nina Wrightson	3

All senior managers have indefinite contracts; there are no fixed term or rolling contracts.

Below are the contractual, salary and pension details of those senior managers who had control over the major activities of the Authority during 2009/10. The information in these two tables is subject to audit.

Salaries and allowances

Name and title	2009-10 Salary £000	2009-10 Other Remuneration £000	2009-10 Benefits in kind £00	2008-09 Salary £000	2008-09 Other Remuneration £000	2008-09 Benefits in kind £00
Professor Dame Joan Higgins DBE *Chair*	35 – 40	N/A	N/A	35 – 40	N/A	N/A
Stephen Walker CBE *Chief Executive*	185 – 190	N/A	63*	185 – 190	N/A	63*
Tom Fothergill *Director of Finance*	155 – 160	N/A	N/A	155 – 160	N/A	37*
Brian Capstick *Non-Executive Member Left 30 November 2009*	5 – 10	N/A	N/A	5 – 10	N/A	N/A
Keith Ford OBE *Non-Executive Member*	10 – 15	N/A	N/A	0 – 5	N/A	N/A
Professor Rory Shaw *Non-Executive Member*	5 – 10	N/A	N/A	5 – 10	N/A	N/A
Nina Wrightson OBE *Non-Executive Member*	5 – 10	N/A	N/A	5 – 10	N/A	N/A

*Benefits in kind relate solely to lease cars

Pension Benefits

Name and title	Real increase in pension at age 60 £000	Real increase in pension lump sum at aged 60 £000	Total accrued pension at age 60 at 31 March 2010 £000	Lump sum at age 60 related to accrued pension at 31 March 2010 £000	Cash Equivalent Transfer Value at 31 March 2010 £000	Cash Equivalent Transfer Value at 31 March 2009 £000	Real increase in Cash Equivalent Transfer Value £000	Employer's contribution to stakeholder pension £00
Stephen Walker CBE *Chief Executive*	2.5 – 5	12.5 – 15	60 – 65	185 – 190	0**	0**	N/A	253
Tom Fothergill *Director of Finance*	2.5 – 5	7.5 – 10	25 – 30	85 – 90	435	368	58	205

**When an employee reaches the eligible retirement age, the CETV becomes £0 since the pension benefits can no longer be transferred.

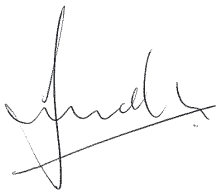
As Non-Executive members do not receive pensionable remuneration, there are no entries in respect of pensions for non-executive members.

Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capital value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The CETV figures and the other pension details include the value of any pension benefits in another scheme or arrangement which the individual has transferred to the NHS pension scheme. They also include any additional pension benefit accrued to the member as a result of their purchasing additional years of pension service in the scheme at their own cost. CETVs are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries.

Real Increase in CETV

This reflects the increase in CETV effectively funded by the employer. It takes account of the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another scheme or arrangement) and uses common market valuation factors for the start and end of the period.



Chief Executive
14 June 2010

Statement of Accounting Officer's responsibilities

Under the National Health Service Act 2006, the Secretary of State has directed the NHS Litigation Authority to prepare for each financial year a statement of accounts in the form and on the basis set out in the Accounts Direction. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the Authority and of its net resource outturn, recognised gains and losses and cash flows for the financial year.

In preparing the accounts, the Accounting Officer is required to comply with the requirements of the Government Financial Reporting Manual and in particular to:

- observe the Accounts Direction issued by the Secretary of State, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the Government Financial Reporting Manual have been followed, and disclose and explain any material departures in the accounts; and
- prepare the accounts on a going concern basis.

The Accounting Officer of the Department of Health has designated the Chief Executive as Accounting Officer of the Authority. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the Authority's assets, are set out in the Accounting Officers' Memorandum issued by the Department of Health.

To the best of my knowledge and belief, I have properly discharged the responsibilities set out in my letter of appointment as Accounting Officer.

Statement on internal control

Scope of responsibility

The Secretary of State has appointed the Chief Executive as the Authority's Accounting Officer. As Accounting Officer, and Chief Executive of this Authority, I have responsibility for maintaining a sound system of internal control that supports the achievement of the Authority's policies, aims and objectives. I also have responsibility for safeguarding the public funds and the organisation's assets for which I am personally responsible as set out in the Accounting Officer Memorandum.

As Chief Executive, I have operational responsibility for the delivery of all aspects of governance and the provision, oversight and effective working of the systems of internal control, in particular the risk management process, the Authority's claims database and financial system. The Executive supported by the Audit and Risk Management Committees makes recommendations to the Board on matters related to governance. Operational responsibility for the Authority's governance systems is delegated to the Director of Finance. The Risk Management Team is responsible for the co-ordination of risk management activity, including information governance, within the Authority. The lead responsibility within that Team is vested in the Risk Management Director who is also the Authority's Senior Information Risk Owner and Data Protection Officer.

'Governance and Assurance' including risk are fully integrated within our overall business-planning process. Planning and risk processes are co-ordinated through the Strategic Management Team, of which I am the Chair, and which reports to the Board. The Risk Management Team facilitates the spread of good practice through its knowledge and learning from experience via liaison with key managers and other staff within the Authority and regular reviews of risk policy. Close working and networking arrangements exist with Internal Auditors, Department of Health and other agencies to ensure that the Authority draws on experience in the wider NHS.

Corporate performance is reported to the Board on a regular basis. Variations from anticipated performance will usually be accompanied by reports from either the Audit or the Risk Management Committee giving the Board assurance on progress and relevant action to be taken.

The purpose of the system of internal control

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to:

- identify and prioritise the risks to the achievement of the organisation's policies, aims and objectives,
- evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.

The broad system of internal control has been in place in the NHS Litigation Authority for the year ended 31 March 2010 and up to the date of approval of the annual report and accounts. Internal audit were able to provide reasonable assurance that there is generally a sound system of internal control within the Authority.

Capacity to Handle Risk

The Authority's approach to risk is explained in the Risk Management Strategy. It identifies the risk roles and responsibilities of staff at all levels. Training is provided on an ongoing basis to equip staff to carry out their designated responsibilities. In addition the approach to Governance (including risk) is featured in the induction process for all new staff.

The Authority is committed to minimising the risks associated with information handling and to ensuring that all staff are fully aware of their responsibilities in relation to the management of information governance risks. During the year a new Information Governance Strategy was developed, supported by related policies and protocols which communicate a consistent approach to information handling within the Authority. These bring together all of the requirements, standards and best practice that apply to the handling of information and allow the Authority to ensure that information is accurate and dealt with legally, securely and efficiently. A revised Scheme of Publication and new Information Charter reflecting good practice were published during the year. All staff receive training on the importance of good information governance.

The Authority's Assurance Framework brings together governance and quality and in effect maps a path from strategic objectives, through the corporate risks and on to the constituent mitigating activities (which are also the activities to deliver that strategic objective). Its purpose is to ensure that systems and information are available to provide the appropriate assurance on the appropriate things (i.e. that risks are being controlled and objectives are being achieved), to the appropriate stakeholders.

The Board receives assurance from the Audit and Risk Management Committees on the achievement of corporate objectives and mitigation of corporate risk. The Board is accountable for demonstrating:

- That key controls are in place to assist in securing and delivering of objectives;
- That the controls systems, upon which reliance is placed, are effective;
- Any gaps in controls systems or assurances are addressed within an agreed corrective action plan.

The Risk and Control Framework

The risk process is effectively integrated into the planning process by which plans are made to deliver objectives through mitigating the risks to their achievement. Risks are identified and evaluated at appropriate levels within the organisation through a uniform system articulated in the Risk Management Strategy. The process is operated and reviewed by the Risk Management Committee, which is accountable to the Board.

During the year a detailed review of the Authority's Business Continuity Plan was undertaken which has resulted in a more robust and tested approach to recover essential business operations following a disaster or major incident which would otherwise seriously impact the organisation's ability to deliver its objectives.

It is the Authority's policy to involve stakeholders, as appropriate, in all areas of its activities, including informing and consulting on the management of any significant risks.

As an employer with staff entitled to membership of the NHS Pension Scheme control measures are in place to ensure all employer obligations contained within the Scheme regulations are complied with. This includes ensuring that deductions from salary, employer contributions and payments into the scheme are in accordance with the Scheme rules, and that member Pension Scheme records are accurately updated in accordance with the timescales detailed in regulations.

The Authority is responsible for holding and maintaining data regarding its staff and also claimants against the NHS and maintains policies and systems, which are subject to regular review, in order to minimise the risk of any breaches in data security.

A thorough review of information security risks was undertaken during the year and a risk treatment plan developed. Appropriate actions have been taken to better manage the risks identified.

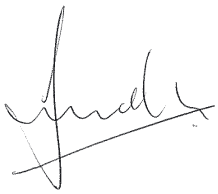
Review of effectiveness

As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of the system of internal control is informed in a number of ways. The head of internal audit provided reasonable assurance that there is generally a sound system of internal control, designed to meet the organisation's objectives, and that controls are generally being applied consistently. There were no 'limited assurance' opinions provided in year. Executive managers within the organisation who have responsibility for the development and maintenance of the system of internal control provide me with assurance. The Assurance Framework itself provides me with evidence that the effectiveness of controls that manage the risks to the organisation achieving its principal objectives have been reviewed.

My review is also informed by comments made by the external auditors in their management letters and other reports on aspects of the system of internal control. The final accounts process for 2009/10 incorporated actions identified during the previous audits to improve the presentation and clarity of the accounts.

The Audit Committee and Risk Management Committee both meet regularly and report to the Board. The Internal Auditors are present at the Audit Committee meetings and have also specifically reported on Corporate Governance during 2009/10.

These arrangements aim to help the Authority maximise its understanding and utilisation of all available information about the quality and effectiveness of our systems to help us improve services and satisfy the increasing need for assurance about the effectiveness of systems of internal control. Based on my review I am not aware of any significant control issues.



Chief Executive and Accounting Officer
14 June 2010

The Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

I certify that I have audited the financial statements of the NHS Litigation Authority for the year ended 31 March 2010 under the National Health Service Act 2006. These comprise the Operating Cost Statement, the Statement of Financial Position, the Statement of Cash Flows, the Statement of Changes in Taxpayers' Equity and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

Respective responsibilities of the Accounting Officer and auditor

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of the Audit of the Financial Statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the NHS Litigation Authority's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the NHS Litigation Authority; and the overall presentation of the financial statements.

In addition, I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income reported in the financial statements have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

Opinion on Regularity

In my opinion, in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

Opinion on financial statements

In my opinion:

- the financial statements give a true and fair view of the state of the NHS Litigation Authority's affairs as at 31 March 2010 and of its net resource outturn, changes in taxpayers' equity and cash flows for the year then ended; and

- the financial statements have been properly prepared in accordance with the National Health Service Act 2006 and directions issued thereunder by the Secretary of State with the approval of HM Treasury.

Opinion on other matters

In my opinion:

- the part of the Remuneration Report to be audited has been properly prepared in accordance with the National Health Service Act 2006 and directions made thereunder by the Secretary of State with the approval of HM Treasury; and
- the information given in the "Board Member" section and "Management Commentary" included within the Annual Report for the financial year for which the financial statements are prepared is consistent with the financial statements.

Matters on which I report by exception

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- adequate accounting records have not been kept; or
- the financial statements are not in agreement with the accounting records or returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Statement on Internal Control does not reflect compliance with HM Treasury's guidance.

Report

I have no observations to make on these financial statements.

Amyas C E Morse
Comptroller and Auditor General
National Audit Office
157-197 Buckingham Palace Road
Victoria
London SW1W 9SP

16 June 2010

Financial Statements

Operating Cost Statement 31 March 2010

	Notes	2009/10 £000	Restated 2008/09 £000
Programme costs			
Authority and claims administration	2.1	**14,121**	13,068
Unwinding of discounts	2.1	**(42,039)**	32,024
Other claims and associated costs	2.1	**2,423,302**	2,228,837
		2,381,263	2,260,861
Cost of capital	2.1	**(501,399)**	(448,326)
Total programme costs	2.1	**1,893,985**	1,825,603
Operating income	4	**(756,068)**	(432,561)
	10	**1,137,917**	1,393,042
Net resource outturn	3.1	**1,137,917**	1,393,042

All income and expenditure is derived from continuing operations

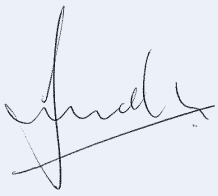
The notes at pages 53 to 76 form part of these accounts.

Statement of Financial Position as at 31 March 2010

	Notes	31 March 2010 £000	Restated 31 March 2009 £000	1 April 2008 £000
Non Current Assets:				
Property, plant & equipment	5.3, 5.4	**651**	586	485
Intangible assets	5.1, 5.2	**310**	226	459
		961	812	944
Current assets:				
Trade and other receivables	6	**7,727**	17,716	12,254
Cash and cash equivalents	7	**41,984**	29,595	124,995
		49,711	47,311	137,249
Current liabilities:				
Trade and other payables	8	**(48,810)**	(48,163)	(28,635)
Non-current assets plus net current assets		**1,862**	(40)	109,558
Non-current liabilities				
Provisions for liabilities and charges – known claims	9.1, 9.2	**(6,371,759)**	(5,565,863)	(4,299,117)
Provisions for liabilities and charges – IBNR	9.1, 9.2	**(8,696,000)**	(7,948,000)	(7,761,000)
Total non-current liabilities		**(15,067,759)**	(13,513,863)	(12,060,117)
Assets less liabilities		**(15,065,897)**	(13,513,903)	(11,950,559)
Taxpayers' equity				
General Fund		**2,085**	1,645	1,373
Revaluation reserve		**55**	55	55
ELS Reserve		**(1,937,974)**	(1,889,698)	(1,910,670)
Ex RHA Reserve		**(35,254)**	(42,127)	(41,874)
CNST Reserve		**(12,949,597)**	(11,463,675)	(9,880,222)
PES Reserve		**(6,232)**	(5,517)	1,470
LTPS Reserve		**(138,980)**	(114,586)	(120,691)
Total taxpayers' equity		**(15,065,897)**	(13,513,903)	(11,950,559)

The General Fund and individual scheme reserves are used to account for all financial resources except for movements on revaluation. The Revaluation Reserve records the unrealised gain or loss on revaluation of assets.

The financial statements on pages 49 to 76 were approved by the Board on 14 June 2010 and signed by Stephen Walker



Accounting Officer

Date: 14 June 2010

The notes at pages 53 to 76 form part of these accounts.

Statement of Changes in Taxpayers' Equity

	Notes	General Fund £000	Revaluation Reserve £000	ELS Reserve £000	Ex RHAS Reserve £000	CNST Reserve £000	PES Reserve £000	LTPS Reserve £000	Total Reserves £000
Balance at 01 April 2008	16	1,373	55	(1,910,670)	(41,874)	(9,880,222)	1,470	(120,691)	(11,950,559)
Changes in taxpayers' equity for 2008/09									
Net operating cost for the year		(1,931)	0	(183,587)	(2,948)	(1,208,654)	(6,533)	10,611	(1,393,042)
Non-cash charges – cost of capital		0	0	(67,160)	(1,407)	(374,799)	(454)	(4,506)	(448,326)
Total recognised income and expense for 2008/09		(1,931)	0	(250,747)	(4,355)	(1,583,453)	(6,987)	6,105	(1,841,368)
Net Parliamentary funding		2,203	0	271,719	4,102	0	0	0	278,024
Restated Balance Balance at 31 March 2009	16	**1,645**	**55**	**(1,889,698)**	**(42,127)**	**(11,463,675)**	**(5,517)**	**(114,586)**	**(13,513,903)**
Changes in taxpayers' equity for 2009/10									
Net operating cost for the year		(1,884)	0	(67,792)	7,055	(1,055,019)	(507)	(19,770)	(1,137,917)
Non-cash charges – cost of capital		0	0	(64,491)	(1,173)	(430,903)	(208)	(4,624)	(501,399)
Total recognised income and expense for 2009/10		(1,884)	0	(132,283)	5,882	(1,485,922)	(715)	(24,394)	(1,639,316)
Net Parliamentary funding		2,324	0	84,007	991	0	0	0	87,322
Balance at 31 March 2010		**2,085**	**55**	**(1,937,974)**	**(35,254)**	**(12,949,597)**	**(6,232)**	**(138,980)**	**(15,065,897)**

The notes at pages 53 to 76 form part of these accounts.

Statement of Cash Flows

	Notes	2009/10 £000	2008/09 £000
Cash flows from operating activities			
Net operating costs		**(1,137,917)**	(1,393,042)
Other cashflow adjustments	10	**(501,108)**	(447,919)
Movement in Working Capital	10	**1,564,532**	1,467,812
Net cash (outflow) from operating activities		**(74,493)**	(373,149)
Cash flows from investing activities			
Purchase of plant, property and equipment	5.3, 5.4	**(278)**	(229)
Purchase of intangible assets	5.1, 5.2	**(162)**	(46)
Net cash inflow/(outflow) from investing activities		**(440)**	(275)
Cash flows from financing activities			
Net Parliamentary funding		**87,322**	278,024
Net financing		**87,322**	278,024
Net increase/(decrease) in cash and cash equivalents		**12,389**	(95,400)
Cash and cash equivalents at 31 March 2010	7	**41,984**	29,595

The notes at pages 53 to 76 form part of these accounts.

Notes to the Accounts

1 Accounting policies

The financial statements have been prepared in accordance with the 2009/10 Government Financial Reporting Manual (FReM) issued by HM Treasury. The accounting policies contained in the FReM apply International Financial Reporting Standards as adapted or interpreted for the public sector context. Where the FReM permits a choice of accounting policy, the accounting policy which is judged to be most appropriate to the particular circumstances of the Authority for the purpose of giving a true and fair view has been selected. The particular policies adopted by the Authority are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

The accounts are presented in pounds sterling and all values are rounded to the nearest thousand pound (£'000). The functional currency of the Authority is pounds sterling.

1.1 Accounting conventions

This account is prepared under the historical cost convention, modified to account for the revaluation of property, plant and equipment and intangible assets where material, at their value to the business by reference to current cost. This is in accordance with directions issued by the Secretary of State for Health and approved by HM Treasury.

1.2 Acquisitions and Discontinued Operations

Activities are considered to be 'acquired' only if they are acquired from outside the public sector. Activities are considered to be 'discontinued' only if they cease entirely. They are not considered to be 'discontinued' if they transfer from one NHS body to another.

1.3 Income

Income is accounted for applying the accruals convention. A major source of funding for the Special Health Authority is Parliamentary grant from the Department of Health from Request for Resources 1 within an approved cash limit, which funds the ELS and Ex-RHA clinical negligence schemes. Parliamentary funding is recognised in the financial period in which it is received.

Operating income is that which relates directly to the operating activities of the Authority. It principally comprises annual contributions charged to member NHS bodies for likely claims payments in year. Where income is received for a specific activity which is to be delivered in the following financial year, that income is deferred.

1.4 Taxation

The Authority is not liable to pay corporation tax. Expenditure is shown net of recoverable VAT. Irrecoverable VAT is charged to the most appropriate expenditure heading or capitalised if it relates to an asset.

1.5 Capital charges

The treatment of non-current assets in the account is in accordance with the principal capital charges objective to ensure that such charges are fully reflected in the cost of capital. The interest rate applied to capital charges in the financial year 2009/10 was 3.5% (2008/09 3.5%) on all assets less liabilities, except for donated assets and cash balances with the Office of the Paymaster General, (OPG), where the charge is nil. From 2010/11, in accordance with changes to the FReM, the Authority will no longer be required to include a cost of capital charge.

The nature of the NHSLA requires the full recognition of liabilities under the various schemes but does not recognise the relevant future income receivable for these liabilities. Thus the NHSLA carries a substantial liability in the accounts. The application of the principles of capital charging as set out in the Government Financial Reporting Manual produces a negative capital charge which is represented as a large credit to expenditure in note 2.1.

1.6 Property, Plant and Equipment

On initial recognition they are measured at cost (for leased assets, fair value) including any costs such as installation directly attributable to bringing them into working condition. They are restated to current value each year.

i) Capitalisation

Plant, property and equipment are capitalised where they are capable of being used for more than one year, and they:

- individually have a cost equal to or greater than £5,000;
- collectively have a cost of at least £5,000 and an individual cost of more than £250, where the assets are functionally interdependent, they had broadly simultaneous purchase dates, are anticipated to have simultaneous disposal dates and are under single managerial control; or
- form part of the initial equipping and setting-up cost of a new building irrespective of their individual or collective cost.

ii) Valuation

These are stated at the lower of replacement cost and recoverable amount. Property, Plant and Equipment are valued at estimated net current replacement cost through annual uplift by the change in the value of the GDP deflator, other than IT equipment which is considered to have nil inflation.

Equipment surplus to requirements is valued at net recoverable amount.

Adjustments arising from indexation price movements are taken to the Revaluation Reserve and shown in the Statement of Changes in Tax Payers Equity. Valuations changes arising from revaluation from cost to Depreciated Replacement Cost for newly constructed assets are also charged there, as such falls in value result from differing assumptions between valuation bases. Where valuations result in a reduction below costs, the reduction is recognised in the operating cost statement.

iii) Depreciation

Depreciation is charged on a straight-line basis on each main class of fixed asset as follows:

	Years
Furniture and fittings	10
Information technology	5

iv) Leased assets

Leases are classified as finance leases if substantially all the risks and rewards of ownership are transferred to the lessee. All other leases are classified as operating leases.

The asset is recorded as a tangible fixed asset and a debt is recorded to the lessor of the minimum lease payment discounted by the interest rate implicit in the lease.

The interest element of finance lease payments is charged to the Operating Cost Statement over the period of the lease at a constant rate in relation to the balance outstanding.

NHSLA holds no finance leases.

Other leases are regarded as operating leases and the rentals are charged to the Operating Cost Statement on a straight line basis over the term of the lease.

1.7 Intangible Assets

i) Capitalisation

Intangible assets which can be valued, are capable of being used in NHSLA's activities for more than one year and have a cost equal to or greater than £5,000;

Purchased computer software licences are capitalised where expenditure of at least £5,000 is incurred and the software has service potential for the organisation.

ii) Internally generated intangible assets

Expenditure on research is not capitalised. Expenditure on development is capitalised if it meets the following criteria;

An internally generated intangible asset arising from the Authority's development is recognised only if all of the following conditions are met:

- an asset is created that can be identified (such as bespoke software);
- it is probable that the asset created will generate future economic benefits; and
- the development cost of the asset can be measured reliably.

Intangible fixed assets are valued at depreciated replacement cost which is valued using appropriate index figures. Surplus intangible assets are valued at the net recoverable amount.

iii) Amortisation

For intangible assets with finite useful lives, amortisation is calculated so as to write off the cost of an asset, less its estimated residual value, over its useful economic life.

Software is amortised on a straight line basis over five years.

1.8 Impairment of non financial assets

Non financial assets are reviewed at each reporting date for indications of impairment. Where an asset is found to be impaired, it is written down through the operating cost statement to its estimated recoverable amount. The recoverable amount is the higher of value in use and the fair value less costs to sell the asset.

Value in use is the net present value of the estimated future cash flows of that asset. Present values are computed using discount rates that reflect the time value of money and the risks specific to the unit whose impairment is being measured.

1.9 Assets Held for Sale

A non-current asset held for sale represents assets whose carrying amount will be recovered principally through a sale transaction rather than through continuing use. Non-current assets held for sale are included in the balance sheet at fair value less costs to sell, if this is lower than the previous carrying amount. Once an asset is classified as held for sale or included in a group of assets held for sale no further depreciation or amortisation is recorded.

1.10 Losses and special payments

Losses and special payments are items that Parliament would not have contemplated when it agreed funds for the health service or passed legislation. By their nature they are items that ideally should not arise. They are therefore subject to special control procedures compared with the generality of payments. They are divided into different categories, which govern the way each individual case is handled.

Losses and special payments are charged to the relevant functional headings in the operating cost statement on an accruals basis, including losses which would have been made good through insurance cover had the Authority not been bearing their own risks (with insurance premiums then being included as normal revenue expenditure). However, note 12 is compiled directly from the losses and compensations register which is prepared on a cash basis.

1.11 Pension costs

Past and present employees are covered by the provisions of the NHS Pensions Scheme. Details of the benefits payable under these provisions can be found on the NHS Pensions website at www.Nhsbsa.nhs.uk/pensions

The scheme is an unfunded, defined benefit scheme that covers NHS employers, General Practices and other bodies, allowed under the direction of the Secretary of State, in England and Wales. The scheme is not designed to be run in a way that would enable NHS bodies to identify their share of the underlying scheme assets and liabilities. Therefore, the scheme is accounted for as if it were a defined contribution scheme: the cost to the NHS Body of

participating in the scheme is taken as equal to the contributions payable to the scheme for the accounting period.

The scheme is subject to a full actuarial valuation every four years (until 2004, every five years) and an accounting valuation every year. An outline of these follows:

a) Full actuarial (funding) valuation

The purpose of this valuation is to assess the level of liability in respect of the benefits due under the scheme (taking into account its recent demographic experience), and to recommend the contribution rates to be paid by employers and scheme members. The last such valuation, which determined current contribution rates was undertaken as at 31 March 2004 and covered the period from 1 April 1999 to that date. The conclusion from the 2004 valuation was that the scheme had accumulated a notional deficit of £3.3 billion against the notional assets as at 31 March 2004.

In order to defray the costs of benefits, employers pay contributions at 14% of pensionable pay and most employees had up to April 2008 paid 6%, with manual staff paying 5%.

Following the full actuarial review by the Government Actuary undertaken as at 31 March 2004, and after consideration of changes to the NHS Pension Scheme taking effect from 1 April 2008, his Valuation report recommended that employer contributions could continue at the existing rate of 14% of pensionable pay, from 1 April 2008, following the introduction of employee contributions on a tiered scale from 5% up to 8.5% of their pensionable pay depending on total earnings. On advice from the scheme actuary, scheme contributions may be varied from time to time to reflect changes in the scheme's liabilities.

b) Accounting valuation

A valuation of the scheme liability is carried out annually by the scheme actuary as at the end of the reporting period by updating the results of the full actuarial valuation.

Between the full actuarial valuations at a two-year midpoint, a full and detailed member data-set is provided to the scheme actuary. At this point the assumptions regarding the composition of the scheme membership are updated to allow the scheme liability to be valued.

The valuation of the scheme liability as at 31 March 2010, is based on detailed membership data as at 31 March 2008 (the latest midpoint) updated to 31 March 2010 with summary global member and accounting data.

The latest assessment of the liabilities of the scheme is contained in the scheme actuary report, which forms part of the annual NHS Pension Scheme (England and Wales) Resource Account, published annually. These accounts can be viewed on the NHS Pensions website. Copies can also be obtained from The Stationery Office.

c) Scheme provisions

In 2009/10 the NHS Pension Scheme provided defined benefits, which are summarised below. This list is an illustrative guide only, and is not intended to detail all the benefits provided by the Scheme or the specific conditions that must be met before these benefits can be obtained:

Annual Pensions

The Scheme is a "final salary" scheme. Annual pensions are normally based on 1/80th for the 1995 section and of the best of the last three years pensionable pay for each year of service, and 1/60th for the 2008 section of reckonable pay per year of membership. Members who are practitioners as defined by the Scheme Regulations have their annual pensions based upon total pensionable earnings over the relevant pensionable service.

With effect from 1 April 2008 members can choose to give up some of their annual pension for an additional tax free lump sum, up to a maximum amount permitted under HMRC rules. This new provision is known as "pension commutation".

Pensions Indexation

Annual increases are applied to pension payments at rates defined by the Pensions (Increase) Act 1971, and are based on changes in retail prices in the twelve months ending 30 September in the previous calendar year.

Lump Sum Allowance

A lump sum is payable on retirement which is normally three times the annual pension payment.

Ill-Health Retirement

Early payment of a pension, with enhancement in certain circumstances, is available to members of the Scheme who are permanently incapable of fulfilling their duties or regular employment effectively through illness or infirmity.

Death Benefits

A death gratuity of twice their final year's pensionable pay for death in service, and five times their annual pension for death after retirement is payable.

Additional Voluntary Contributions (AVCs)

Members can purchase additional service in the NHS Scheme and contribute to money purchase AVC's run by the Scheme's approved providers or by other Free Standing Additional Voluntary Contributions (FSAVC) providers.

Transfer between Funds

Scheme members have the option to transfer their pension between the NHS Pension Scheme and another scheme when they move into or out of NHS employment.

Preserved Benefits

Where a scheme member ceases NHS employment with more than two years service they can preserve their accrued NHS pension for payment when they reach retirement age.

Compensation for Early Retirement

Where a member of the Scheme is made redundant they may be entitled to early receipt of their pension plus enhancement, at the employer's cost.

1.12 Short Term Employee Benefits

Short term employee benefits, which include paid absences such as holiday pay, which fall due wholly within one year of the end of the financial period in which the employee renders the service, are accounted for on an accruals basis.

1.13 Leases

Assets held under finance leases and hire purchase contracts are capitalised in the balance sheet and are depreciated over their useful lives or primary lease term. Rentals under operating leases are charged on a straight line basis over the terms of the lease.

1.14 Provisions

The Authority provides for legal or constructive obligations that are of uncertain timing or amount at the balance sheet date on the basis of the best estimate of the expenditure required to settle the obligation. Where the effect of the time value of money is significant, the estimated risk-adjusted cash flows are discounted using the Treasury's discount rate of 2.2% in real terms.

The ELS and Ex-RHA schemes are funded by the Department of Health, CNST, LTPS and PES from Trust contributions, and the accounts for the schemes are prepared in accordance with IAS 37. A provision for these schemes is calculated in accordance with IAS 37 by discounting the gross value of all claims received: this is disclosed in note 9.1.

The calculation is made using:

i) probability factors. The probability of each claim having to be settled is assessed between 10% and 94%. This probability is applied to the gross value to give the probable cost of each claim; and

ii) a discount factor calculated using the real discount rate of 2.2%, RPI of 3% and claims inflation (varying between schemes) of between 5% and 10%, is applied to the probable cost to take into account the likely time to settlement.

the difference between the gross value of claims and the probable cost of each claim as calculated above is also discounted, taking into account the likely time to settlement, and is included in contingent liabilities as set out in note 9.4.

1.15 Financial Assets and Liabilities

i) Initial Recognition and Measurement

The Authority recognise financial assets and liabilities on its balance sheet when, and only when, it becomes a party to the contractual provisions of the instrument. On initial recognition IAS 39 requires the Authority to recognise all financial assets and liabilities at fair value. The fair value of a financial asset on initial recognition is normally represented by the transaction price.

The transaction price for financial assets other than those classified at fair value through profit and loss includes the transaction costs that are directly attributable to the acquisition or issue of the financial asset. Transaction costs incurred on the acquisition or issue of financial assets classified at fair value through profit are expensed immediately.

The Authority recognises financial assets using settlement date accounting. The settlement date is the date that an asset is delivered to or by an entity. Settlement date accounting refers to the recognition of an asset on the day it is received by the entity, and the derecognition of an asset and recognition of any gain or loss on disposal on the day that it is delivered by the entity.

ii) Subsequent Measurement

Subsequent measurement of financial assets depends on their classification on initial recognition under IAS 39. The categories relevant to the Authority are as follows:

Loans and Receivables: loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. Assets that the Authority intends to sell immediately or in the near term cannot be classified in this category. These assets are carried at amortised cost using the effective interest method minus any reduction for impairment or uncollectibility. Interest income is recognised by applying the effective interest rate method, except on short term receivables when the recognition of interest would be immaterial. Impairment charges are provided only when there is objective evidence that an impairment loss has been incurred. If that is the case, the carrying amount of the asset is reduced through use of an allowance account. The amount of the loss is recognised in the operating cost statement.

Typically trade and other receivables are classified in this category.

iii) Fair value determination

Whenever available, the fair value of a financial instrument is derived from an active market. The appropriate quoted market price for an asset held or liability to be issued is usually the current bid price and, for an asset to be acquired or liability held, the asking price. If there is no market, or the markets available are not active, the Authority establishes fair value by using a valuation technique. Valuation techniques include using recent arm's length market transactions between knowledgeable, willing parties, if available, reference to the current fair value of similar instruments and incorporates all factors that market participants would consider in setting a price and is consistent with accepted economic methodologies for pricing financial instruments. As far as unquoted equity instruments are concerned, in cases where it is not possible to reliably measure the fair value, such instruments are carried at cost.

iv) Derecognition of financial assets

Irrespective of the legal form of the transactions, financial assets are derecognised when they pass the "substance over form" based derecognition test prescribed. That test comprises two different types of evaluations which are applied strictly in sequence:

- Evaluation of the transfer of risks and rewards of ownership
- Evaluation of the transfer of control

Whether the assets is recognised / derecognised in full or recognised to the extent of Authority's continuing involvement depends on accurate analysis which is performed on a specific transaction basis.

v) Cash and Cash Equivalents

Cash and Cash Equivalents comprise cash in hand, on demand deposits and other short term highly liquid investments that are readily convertible to a known amount of cash and are subject to insignificant risk of changes in value.

vi) Financial liabilities

Financial liabilities are classified according to the substance of the contractual arrangements entered into. The Authority has the following class of financial liabilities:

Other financial liabilities: all liabilities, which have not been classified at fair value through profit or loss. These liabilities are carried at amortised cost using the effective interest method. Typically, trade and other payables and borrowings are classified in this category.

vii) Derecognition of financial liabilities

The Authority derecognises financial liabilities when, and only when, the Authority's obligations are discharged, cancelled or they expire.

viii) Embedded derivatives

Derivatives embedded in other financial instruments or other host contracts are treated as separate derivatives when their risks and characteristics are not closely related to those of the host contracts and the host contract is not measured at fair value with changes in fair value recognised in profit or loss.

1.16 Critical Judgements and key sources of estimation uncertainty

In the application of the Authority's accounting policies, which are described in note 1, the directors are required to make judgements, estimates and assumptions about the carrying amounts of assets and liabilities that are not readily apparent from other sources. The estimates and associated assumptions are based on historical experience and other factors that are considered to be relevant. The judgements that have the most significant effect on the amounts recognised in the financial statements relate to the calculation of the prosisions for known claims and for IBNR, as explained in Note 9. Actual results may differ from these estimates.

The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to accounting estimates are recognised in the period in which the estimate is revised if the revision affects only that period, or in the period of the revision and future periods if the revision affects both current and future periods.

2.1 Authority programme expenditure

	Notes	£000	2009/10 £000	2008/09 £000
Non-executive members' remuneration	2.2	**77**		79
Other salaries and wages	2.2	**7,544**		7,114
Redundancy Costs	2.2	**137**		20
Supplies and services – general		**3**		8
Establishment expenses		**565**		1,152
Hire and operating Lease Rental				
Land & Buildings		**694**		699
Lease cars		**23**		24
Photocopiers		**83**		80
Transport and moveable plant		**8**		10
Premises and fixed plant		**1,240**		987
External contractors				
Actuary's advice		**439**		375
Risk Management		**1,991**		1,522
Other		**882**		436
Auditor's remuneration: audit fees*		**80**		85
Auditor's remuneration: IFRS preparation audit fees		**5**		5
Internal audit fees		**39**		43
Miscellaneous		**20**		22
			13,830	12,661
Depreciation	5.3, 5.4	**147**		386
Amortisation	5.1, 5.2	**141**		20
(Profit)/loss on disposal		**3**		1
			291	
			14,121	13,068
Capital charges interest			**(501,399)**	(448,326)
Other finance costs – unwinding of discount	9.1, 9.2		**(42,039)**	32,024
Increase in provision for known claims (excl. unwinding of discounts)	9.1, 9.2	**1,675,302**		2,041,837
Increase/(decrease) in the provision for IBNR	9.1, 9.2	**748,000**		187,000
			2,423,302	
			1,893,985	1,825,603

* The Authority did not make any payments to Auditors for non audit work

2.2 Staff numbers and related costs

	2009/10 Total	Permanently employed staff	Other	2008/09
	£000	**£000**	**£000**	£000
Salaries and wages	**6,542**	6,053	489	5,992
Social security costs	**497**	497		504
Employer contributions to NHS Pensions	**719**	719		717
	7,758	**7,269**	**489**	7,213

The average number of employees during the year was:

	Total Number	Permanently employed staff Number	Other Number	2008/09 Number
Total	**147**	134	13	147

Redundancy Costs

The cost to the NHSLA of redundancies in 2009/10 was £136,513 (2008/09: £20,432)

Expenditure on staff benefits

The amount spent on staff benefits during the year mainly on lease cars totalled £32,550 (2008/09: £35,853).

Retirements due to ill-health

During 2008/09 there was 0 (2008/09:0) early retirement from the NHS Litigation Authority on the grounds of ill-health, at an additional cost of £0 (2008/09: £0). This information has been supplied by NHS Pensions.

3.1 Reconciliation of net operating cost to net resource outturn

	2009/10
	£000
Net operating cost	1,137,917
Net resource outturn	1,137,917
Revenue resource limit	1,144,630
Under spend against revenue resource limit	6,713

3.2 Reconciliation of gross capital expenditure to capital resource limit

	2009/10
	£000
Gross capital expenditure	440
NBV of assets disposed	(3)
Net capital resource outturn	437
Capital resource limit	440
Under spend against limit	3

3.3 Cost of Capital Charge Calculation

	2009/10
	£000
Opening total assets employed	(13,513,903)
Opening adjustments	
Less opening cash in OPG	(29,595)
Opening relevant net assets at 1 April (A)	(13,543,498)
Total assets employed at 31 March	(15,065,897)
Less closing cash in OPG	(41,984)
Adjusted net relevant assets at 31 March (B)	(15,107,881)
Cost of capital for the year ((A) + (B))/2 * 3.5%	(501,399)

3.4 Other gains and losses

	2009/10	2008/09
	£000	£000
(Loss) on disposal of plant and equipment	(3)	(1)
Total	**(3)**	(1)

4 Operating income

Operating income, analysed by classification and activity, is as follows:

	Appropriated in aid 2009/10	2008/09
	£000	£000
Programme income:		
CNST contributions	717,332	392,943
PES contributions	3,481	2,546
LTPS contributions	35,255	37,072
Total	**756,068**	432,561

5.1 Intangible assets

	Information Technology	Software licences	Total
	£000	£000	£000
Gross cost at 1 April 2009	1,252	577	1,829
Additions – purchased	162		162
Reclassification	63		63
Disposals		(68)	(68)
Gross cost at 31 March 2010	**1,477**	**509**	**1,986**
Accumulated amortisation at 1 April 2009	1,125	478	1,603
Charged during the year	108	33	141
Reclassification			
Disposals		(68)	(68)
Accumulated amortisation at 31 March 2010	**1,233**	**443**	**1,676**
Net Book Value at 1 April 2009	127	99	226
Net Book Value 31 March 2010	**244**	**66**	**310**

5.2 Intangible assets (Prior Year)

	Information Technology	Software licences	Total
	£000	£000	£000
Gross cost at 1 April 2008	1,252	531	1,783
Additions – purchased		46	46
Reclassification			
Disposals			
Gross cost at 31 March 2009	**1,252**	**577**	**1,829**
Accumulated amortisation at 1 April 2008	866	458	1,324
Charged during the year		20	20
Reclassification	259		259
Disposals			
Accumulated amortisation at 31 March 2009	**1,125**	**478**	**1,603**
Net Book Value at 1 April 2008	386	73	459
Net Book Value 31 March 2009	**127**	**99**	**226**

5.3 Property, Plant and Equipment

	Information technology	Furniture & fittings	Total
	£000	£000	£000
Valuation at 1 April 2009	830	219	1,049
Additions – purchased	278		278
Reclassification	(63)		(63)
Disposals	(31)		(31)
Valuation at 31 March 2010	**1,014**	**219**	**1,233**
Accumulated depreciation at 1 April 2009	302	161	463
Charged during the year	138	9	147
Reclassification			
Disposals	(28)		(28)
Accumulated depreciation at 31 March 2010	**412**	**170**	**582**
Net Book Value at 1 April 2009	528	58	586
Net Book Value at 31 March 2010	**602**	**49**	**651**

No assets are held under finance leases or hire purchase contracts and the NHSLA does not own any land or buildings.

Capital commitments: The NHSLA has no capital commitments at 31 March 2010 (2008/09: nil).

5.4 Property, Plant and Equipment (Prior Year)

	Information technology	Furniture & fittings	Total
	£000	£000	£000
Valuation at 1 April 2008	885	219	1,104
Additions – purchased	229		229
Reclassification			0
Disposals	(284)		(284)
Valuation at 31 March 2009	**830**	**219**	**1,049**
Accumulated depreciation at 1 April 2008	469	150	619
Charged during the year	375	11	386
Reclassification	(259)		(259)
Disposals	(283)		(283)
Accumulated depreciation at 31 March 2009	**302**	**161**	**463**
Net Book Value at 1 April 2008	416	69	485
Net Book Value at 31 March 2009	**528**	**58**	**586**

6 Receivables

Amounts falling due within one year							**Total**	Total	Total
							31 March	31 March	1 April
	Ex RHAS	**ELS**	**CNST**	**PES**	**LTPS**	**Admin**	**2010**	2009	2008
	£000	**£000**	**£000**	**£000**	**£000**	**£000**	**£000**	£000	£000
NHS receivables – revenue			763	69	657	10	**1,499**	13,758	7,505
Accrued income			2,521				**2,521**		2,480
Prepayments						1,822	**1,822**	1,842	1,781
Other receivables		148	1,432	1	155	149	**1,885**	2,116	488
	0	**148**	**4,716**	**70**	**812**	**1,981**	**7,727**	17,716	12,254
Intra-government balances									
Balances with other central government bodies		148	1,432	2	162	65	**1,809**	2,047	411
Balances with NHS Trusts			3,222	34	434		**3,690**	9,862	5,652
Balances with public corporations and trading funds			62	34	216	1	**313**	3,896	1,853
Subtotal of intra-government balances	**0**	**148**	**4,716**	**70**	**812**	**66**	**5,812**	15,805	7,916
Balances with bodies external to government						1,915	**1,915**	1,911	4,338
	0	**148**	**4,716**	**70**	**812**	**1,981**	**7,727**	17,716	12,254

7 Cash and cash equivalents

	Ex RHAS	ELS	CNST	PES	LTPS	Admin	Total 31 March 2010	Total 31 March 2009	Total 1 April 2008
	£000	£000	£000	£000	£000	£000	£000	£000	£000
At 1 April	339	(836)	3,211	3,843	23,030	8	29,595	124,995	82,244
Change During the year	**(339)**	**(7)**	**9,684**	**(2,187)**	**5,246**	**(8)**	**12,389**	(95,400)	42,751
At 31 March	**0**	**(843)**	**12,895**	**1,656**	**28,276**	**0**	**41,984**	29,595	124,995
Made up of									
Cash with Office of HM Paymaster General	**0**	**(843)**	**12,895**	**1,656**	**28,276**	**0**	**41,984**	29,595	124,995
Cash and cash equivalents as in statement of financial position	**0**	**(843)**	**12,895**	**1,656**	**28,276**	**0**	**41,984**	29,595	124,995
Cash and cash equivalents as in statement of cash flows	**0**	**(843)**	**12,895**	**1,656**	**28,276**	**0**	**41,984**	29,595	124,995

8 Trade payables and other current liabilities

Amounts falling due within one year	Ex RHAS	ELS	CNST	PES	LTPS	Admin	Total 31 March 2010	Total 31 March 2009	Total 1 April 2008
	£000	£000	£000	£000	£000	£000	£000	£000	£000
NHS payables revenue				22	1,927		**1,949**	22	1,083
Prepaid income			2,649				**2,649**		
Accruals		1,633	28,131	30	750	1,024	**31,568**	46,246	20,711
Other payables		5,370	6,390		749	135	**12,644**	1,895	6,841
	0	**7,003**	**37,170**	**52**	**3,426**	**1,159**	**48,810**	48,163	28,635
Intra-government balances									
Balances with other central government bodies			2,649				**2,649**	6	
Balances with NHS Trusts					1,195		**1,195**	11	824
Balances with public corporations and trading funds				22	732		**754**	10	259
Subtotal of intra-government balances	**0**	**0**	**2,649**	**22**	**1,927**	**0**	**4,598**	27	1,083
Balances with bodies external to government		7,003	34,521	30	1,499	1,159	**44,212**	48,136	27,552
	0	**7,003**	**37,170**	**52**	**3,426**	**1,159**	**48,810**	48,163	28,635

9.1 Provisions for liabilities and charges

	Ex RHAS	ELS	CNST	PES	LTPS	Total
	£000	£000	£000	£000	£000	£000
Opening Provision for Known Claims	(29,457)	(1,509,456)	(3,940,348)	(12,696)	(73,906)	**(5,565,863)**
Opening Provisions for IBNR	(13,000)	(515,000)	(7,358,000)	(1,000)	(61,000)	**(7,948,000)**
Total Provisions as at 1 April 2009	**(42,457)**	**(2,024,456)**	**(11,298,348)**	**(13,696)**	**(134,906)**	**(13,513,863)**
Discounting	(930)	610,006	1,179,159	(3)	(16)	**1,788,216**
Arising during the year	(3,571)	(1,048,256)	(3,222,435)	(5,689)	(70,367)	**(4,350,318)**
Reversed unused	6,204	225,279	634,368	1,658	19,291	**886,800**
Unwinding of discount	(784)	(19,436)	62,211	2	46	**42,039**
Utilised during the year	954	135,064	650,973	6,424	33,952	**827,367**
	1,873	(97,343)	(695,724)	2,392	(17,094)	**(805,896)**
Movement in Net IBNR	5,000	101,000	(849,000)		5,000	**(748,000)**
Closing Provision for Known Claims	(27,584)	(1,606,799)	(4,636,072)	(10,304)	(91,000)	**(6,371,759)**
Closing Provisions for IBNR	(8,000)	(414,000)	(8,207,000)	(1,000)	(66,000)	**(8,696,000)**
At 31 March 2010	**(35,584)**	**(2,020,799)**	**(12,843,072)**	**(11,304)**	**(157,000)**	**(15,067,759)**
Expected timing of cash flows:						
Within 1 year	(363)	(245,012)	(1,395,808)	(11,304)	(89,704)	**(1,742,191)**
1-5 years	(6,521)	(507,268)	(3,708,976)	0	(57,296)	**(4,280,061)**
Over 5 years	(28,700)	(1,268,519)	(7,738,288)	0	(10,000)	**(9,045,507)**
	(35,584)	**(2,020,799)**	**(12,843,072)**	**(11,304)**	**(157,000)**	**(15,067,759)**

9.2 Provisions for liabilities and charges (Prior Year)

	Ex RHAS	ELS	CNST	PES	LTPS	Total
	£000	£000	£000	£000	£000	£000
Opening Provision for Known Claims	(27,204)	(1,335,245)	(2,857,374)	(7,247)	(72,047)	**(4,299,117)**
Opening Provisions for IBNR	(15,000)	(590,000)	(7,086,000)	(1,000)	(69,000)	**(7,761,000)**
Total Provisions as at 1 April 2008	**(42,204)**	**(1,925,245)**	**(9,943,374)**	**(8,247)**	**(141,047)**	**(12,060,117)**
Discounting	9,389	758,864	1,387,569	2	(40)	**2,155,784**
Arising during the year	(19,456)	(1,176,581)	(3,405,398)	(12,282)	(58,221)	**(4,671,938)**
Reversed unused	4,485	118,971	325,567	2,917	22,377	**474,317**
Unwinding of discount	(749)	(26,270)	(5,054)	0	49	**(32,024)**
Utilised during the year	4,078	150,805	614,342	3,914	33,976	**807,115**
	(2,253)	(174,211)	(1,082,974)	(5,449)	(1,859)	**(1,266,746)**
Movement in Net IBNR	2,000	75,000	(272,000)	0	8,000	**(187,000)**
Closing Provision for Known Claims	(29,457)	(1,509,456)	(3,940,348)	(12,696)	(73,906)	**(5,565,863)**
Closing Provisions for IBNR	(13,000)	(515,000)	(7,358,000)	(1,000)	(61,000)	**(7,948,000)**
At 31 March 2009	**(42,457)**	**(2,024,456)**	**(11,298,348)**	**(13,696)**	**(134,906)**	**(13,513,863)**
Expected timing of cash flows:						
Within 1 year	(241)	(288,317)	(1,099,623)	(13,070)	(68,351)	**(1,469,602)**
1-5 years	(8,336)	(510,707)	(3,343,136)	(626)	(53,555)	**(3,916,360)**
Over 5 years	(33,880)	(1,225,432)	(6,855,589)	0	(13,000)	**(8,127,901)**
	(42,457)	**(2,024,456)**	**(11,298,348)**	**(13,696)**	**(134,906)**	**(13,513,863)**

9.3 Allocation of Income and Expenditure to the schemes

	Ex RHAS £000	ELS £000	CNST £000	PES £000	LTPS £000	Equal Pay £000	FHSA £000	**March 2010 Total £000**	March 2009 Total £000
Expenditure									
Authority and claims administration	37	876	7,557	164	3,603	565	1,319	**14,121**	13,068
Claims and associated costs									
Provision for known claims	(919)	232,407	1,346,697	4,032	51,046	0	0	**1,633,263**	2,073,861
Increase/ (decrease) in the Provision for IBNR	(5,000)	(101,000)	849,000	0	5,000	0	0	**748,000**	187,000
	(5,919)	131,407	2,195,697	4,032	56,046	0	0	**2,381,263**	2,260,861
Cost of capital	(1,173)	(64,491)	(430,903)	(208)	(4,624)			**(501,399)**	(448,326)
	(7,055)	**67,792**	**1,772,351**	**3,988**	**55,025**	**565**	**1,319**	**1,893,985**	1,825,603
Income									
Scheme income	0	0	(717,332)	(3,481)	(35,255)	0	0	**(756,068)**	(432,561)
Net Operating Cost – (surplus)/ deficit	**(7,055)**	**67,792**	**1,055,019**	**507**	**19,770**	**565**	**1,319**	**1,137,917**	1,393,042

9.4 Contingent liabilities

	Ex RHAS £000	ELS £000	CNST £000	PES £000	LTPS £000	Total £000
Contingent liability for claims 2009/10	**8,797**	**658,650**	**6,531,299**	**4,460**	**81,261**	**7,284,467**
Contingent liability for claims 2008/09	14,106	731,670	5,716,646	4,719	70,187	6,537,328
Contingent liability for claims 2007/08	14,971	755,357	5,134,946	2,784	73,311	5,981,369

The Authority makes a provision in its accounts for the likely value of future claims payments, and records contingent liabilities that represent possible additional claims payments to those already provided for. These amounts are not included in the accounts but shown shown as a note to the financial statements because a transfer of economic benefit is not deemed likely.

Existing Liabilities Scheme (ELS) and Ex-Regional Health Authorities Scheme (Ex-RHAS)

Claims are included in the ELS provision on the basis that the incident ocurred on or before 31st March 1995. Qualifying claims under the Ex-RHA scheme are claims brought against the former Regional Health Authorities whose clinical negligence liabilities passed to the Authority with effect from 1st April 1996.

Clinical Negligence Scheme for Trusts (CNST)

A provision for this scheme is calculated in accordance with IAS 37 by discounting the gross value of all claims received relating to incidents which occurred on or before 31 March 2010 and on or after 1 April 1995. Claims are included in the provision on the basis that the CNST members have assessed:

a. the probable cost and time to settlement in accordance with scheme guidelines;

b. that they are qualifying incidents; and

c. that the Trust remains a member of the scheme.

As at 31st March 2002 all outstanding claims for incidents post 1st April 1995 became the direct responsibility of the NHSLA. This 'call in' of CNST claims effectively means that member trusts are no longer reponsible for accounting for claims made against them although they do remain the legal defendant.

Property Expenses Scheme (PES) and Liability to Third Parties Scheme (LTPS)

In April 1999 the Authority introduced the PES and LTPS following the Secretary of State's decision that NHS Trusts should not insure with commercial companies for non clinical risks, other than motor vehicles and other defined areas (eg. PFI schemes).

The schemes are managed and funded via the same mechanisms as the CNST except that specific excesses exist for some types of claims. Thus the provision recorded in these accounts relates only to the NHSLA proportion of each claim. The accounts for these schemes have been prepared in accordance with IAS 37.

Assumption of Liabilities upon Cessation

The *NHS (Residual Liabilities) Act 1996* requires the Secretary of State to exercise his statutory powers to deal with the liabilities of a Special Health Authority, if it ceases to exist. This would include the liabilities assumed by the Litigation Authority in respect of the ELS, ex-RHA and CNST schemes.

Incidents Incurred but not reported (IBNR)

IAS 37 requires the inclusion of liabilities in respect of incidents which have been incurred but not reported to the NHS Litigation Authority as at 31 March 2010 where the following can be reasonably forecast:

a. that an adverse incident has occurred; and

b. that a transfer of economic benefit will occur; and

c. that a reasonable estimate of the likely value can be made.

The NHSLA uses its actuaries, Lane, Clark & Peacock, to assess the potential value of IBNRs against each of the schemes it operates. The actuaries review existing claims records, and using an appropriate model, calculate values in respect of IBNRs for all schemes. The provisions and contingent liabilities arising are shown above. The sums concerned are accounting estimates, and although determined on the basis of information currently available, the ultimate liabilities may vary as a result of subsequent developments.

10 Reconciliation of operating costs to operating cash flows

	Notes		**2009/10**	2008/09
			£000	£000
Net operating cost			**(1,137,917)**	(1,393,042)
Adjustments for non-cash transactions				
Depreciation	2.1	**147**		386
Amortisation	2.1	**141**		20
Capital charges interest	2.1	**(501,399)**		(448,326)
(Profit)/loss on disposal	2.1	**3**		1
			(501,108)	(447,919)
Adjustments for movements in working capital other than cash				
(Increase)/decrease in receivables	6	**9,989**		(5,462)
Increase/(decrease) in payables	8	**647**		19,528
Increase/(decrease) in provisions	9	**1,553,896**		1,453,746
			1,564,532	1,467,812
Net cash outflow from operating activities			**(74,493)**	(373,149)

11 Commitments under operating leases

The total future minimum lease payments under non-cancellable operating leases payable in each of the following periods are:

		2009/10	2008/09
Land and buildings		**£000**	£000
Amounts payable:	within 1 year	**368**	732
	between 1 and 5 years		368
	after 5 years		0
		368	1,100
Other leases			
Amounts payable:	within 1 year	**80**	104
	between 1 and 5 years	**25**	62
	after 5 years		0
		105	166

12 Losses and special payments

There was 1 case of losses and special payment (prior year: 2 cases) totalling £14,000 (prior year £11,053).

13 Related parties

The Authority is a body corporate established by order of the Secretary of State for Health.

The Department of Health is regarded as a controlling related party. During the year the Authority has had a significant number of material transactions with the Department, and with other entities, to whom the Authority provides clinical and non clinical risk pooling services, for which the Department is regarded as the parent Department, i.e.:

	Charge to the Operating Cost Statement		Total charge
NHS Body	**Income**	**Expenditure**	**Provision**
	£000	**£000**	**£000**
All English Strategic Health Authorities	117	28	1,192,839
All English NHS Trusts and PCTs	412,886	8,953	2,732,306
All English NHS Foundation Trusts	342,212	3,399	2,416,756
NHS Blood and Transplant	536	40	987
The National Patient Safety Agency	22		50
NHS Business Services Authority	109	23	682
NHS Institute for Innovation and Improvement	8		0
NHS Information Centre	25		
National Treatment Centre	12		
Health Protection Agency	388		145
NHS Direct	236		316
NHS Professionals		621	23

The Authority also charged to the Operating Cost Statement a provision for those incidents that have been incurred but not yet reported in the sum of £748m (2008/09 £187m).

In addition Professor R Shaw and Ms N Wrightson, non-executive directors of the Authority, are also employed by North West London Hospitals NHS Trust as the Medical Director, and as a non-executive Director of Yorkshire Ambulance Service NHS Trust, respectively.

14 Financial instruments

IFRS 7 Financial Instruments: Disclosures requires disclosure of the role that financial instruments have had during the period in creating or changing the risks an entity faces in undertaking its activities. Because of the way Special Health Authorities are financed, the NHS Litigation Authority is not exposed to the degree of financial risk faced by business entities. Also financial instruments play a much more limited role in creating or changing risk than would be typical of the listed companies to which IFRS 7 mainly applies. The NHS Litigation Authority has limited powers to borrow or invest surplus funds, and financial assets and liabilities are generated by day-to-day operational activities rather than being held to change the risks facing the NHS Litigation Authority in undertaking its activities.

The NHS Litigation Authority holds financial assets in the form of NHS and other receivables, and cash, as set out in Notes 6 and 7 respectively, and financial liabilities in the form of NHS and other payables, as set out in Note 8. As these receivables and payables are due to mature or become payable within 12 months from the balance sheet date, the Authority considers that the carrying value is a reasonable approximation to fair value for these financial instruments.

Liquidity risk
The NHS Litigation Authority's net operating costs are financed from resources voted annually by Parliament and scheme contributions from member NHS Trusts. The NHS Litigation Authority finances its capital expenditure from funds made available from Government under an agreed capital resource limit. The NHS Litigation Authority is, therefore, not exposed to significant liquidity risks.

Market risk (including foreign currency and interest rate risk)
None of the Authority's financial assets and liabilities carry rates of interest. The Authority has negligible foreign currency income and expenditure. The NHS Litigation Authority is, therefore, not exposed to significant interest rate or foreign currency risk.

Credit Risk
As noted, the Authority receives its income from member NHS Trusts. As a consequence, its NHS and other debtors are not impaired, and there are no significant debtor balances with bodies external to government. The NHS Litigation Authority is, therefore, not exposed to significant credit risk.

15 Post Balance Sheet Events

These financial statements were authorised for issue on 16 June 2010 by the Accounting Officer.

16 First time adoption of IFRS

	General Fund £000	Revaluation Reserve £000	ELS Reserve £000	Ex RHAS Reserve £000	CNST Reserve £000	PES Reserve £000	LTPS Reserve £000	Total Reserves £000
Taxpayers' equity at 31 March 2008 under UK GAAP:	1,383	55	(1,910,639)	(41,874)	(9,879,994)	1,476	(120,542)	(11,950,135)
Adjustments for IFRS changes:								
Leases	(3)		(27)		(195)	(5)	(128)	(358)
Employee Benefits	(7)		(4)		(33)	(1)	(21)	(66)
Taxpayers' equity at 1 April 2008 under IFRS:	1,373	55	(1,910,670)	(41,874)	(9,880,222)	1,470	(120,691)	(11,950,559)
Taxpayers' equity at 31 March 2009 under UK GAAP:	1,658	55	(1,889,670)	(42,127)	(11,463,442)	(5,512)	(114,459)	(13,513,497)
Adjustments for IFRS changes as at 1 April 2008	(10)	0	(31)	0	(228)	(6)	(149)	(424)
Adjustments for IFRS changes:								
Leases	0	0	4	0	4	1	24	33
Employee Benefits	(3)	0	(1)	0	(9)	0	(2)	(15)
Taxpayers' equity at 1 April 2009 under IFRS:	1,645	55	(1,889,698)	(42,127)	(11,463,675)	(5,517)	(114,586)	(13,513,903)
Net operating cost at 31 March 2009 under UK GAAP:	(1,928)		(183,588)	(2,948)	(1,208,640)	(6,534)	10,589	(1,393,049)
Adjustments for:								
Leases	0	0	4	0	4	1	24	33
Employee Benefits	(3)	0	(1)	0	(9)	0	(2)	(15)
Cost of capital	0	0	(2)	0	(9)	0	0	(11)
Net operating cost for 2008/09 under IFRS	**(1,931)**	**0**	**(183,587)**	**(2,948)**	**(1,208,654)**	**(6,533)**	**10,611**	**(1,393,042)**

Cash flows reported for 2008/09 are unaffected by the adoption of IFRS.

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