



Clinical Negligence & Other Risks Indemnity Scheme (CNORIS)

Annual Report 2023-2024

NHS National Services Scotland

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Introduction

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

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

This year's annual report provides summary details of the number and value of claims for reimbursement made during the financial year 2023-2024 by members and gives an insight into arrangements for payment of clinical negligence claims and the impact on the NHS in Scotland².

CNORIS covers both clinical and non-clinical claims³. In 2023-2024, there were 351 claims for reimbursement processed by CNORIS, with a total value of £47.33 million. This compares with 438 in 2022-23, 445 in 2021-22, 311 in 2020-2021, and 285 in 2019-2020. This represents a decrease of 20% in claim numbers and a 14.8% decrease in value compared with 2022-2023. Clinical claims accounted for 77% of all claims received during 2023-2024 and 92% of the value of payments.

The 351 reimbursement payments made in 2023-2024 were across various specialities including 75 relating to obstetrics and gynaecology claims. There were also 6 individual payments of £1 million or more.

It should be noted that although a claim for reimbursement may have been processed in 2023-2024 it often related to an incident that occurred many years previously. This is highlighted by the fact that of the claims received in 2023-2024 there were none with an incident date in 2023-2024 or 2022-2023. Graph 1 below analyses this in detail.

Outturn for 2023-2024

The value of reimbursement payments in 2023-2024 was £47.33 million.

Table 1 below provides a breakdown of the number and value of claims reimbursed during 2023-2024. Note that to maintain the confidentiality of claimants there is no breakdown provided per Board where numbers of reimbursements were below 5.

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Table 1: Number & Value of 2023-2024 Reimbursement Payments

<u>NHS Board</u>	<u>Value of Reimbursements (£)</u>	<u>Number of Reimbursements</u>
National Waiting Times Centre	217,784	7
NHS Ayrshire & Arran	5,701,078	24
NHS Borders	543,093	5
NHS Dumfries & Galloway	924,534	10
NHS Fife	3,119,443	34
NHS Forth Valley	1,516,043	19
NHS Grampian	7,764,959	25
NHS Greater Glasgow & Clyde	8,371,474	76
NHS Highland	2,779,233	27
NHS Lanarkshire	4,429,873	49
NHS Lothian	4,733,212	40
NHS Tayside	5,567,606	25

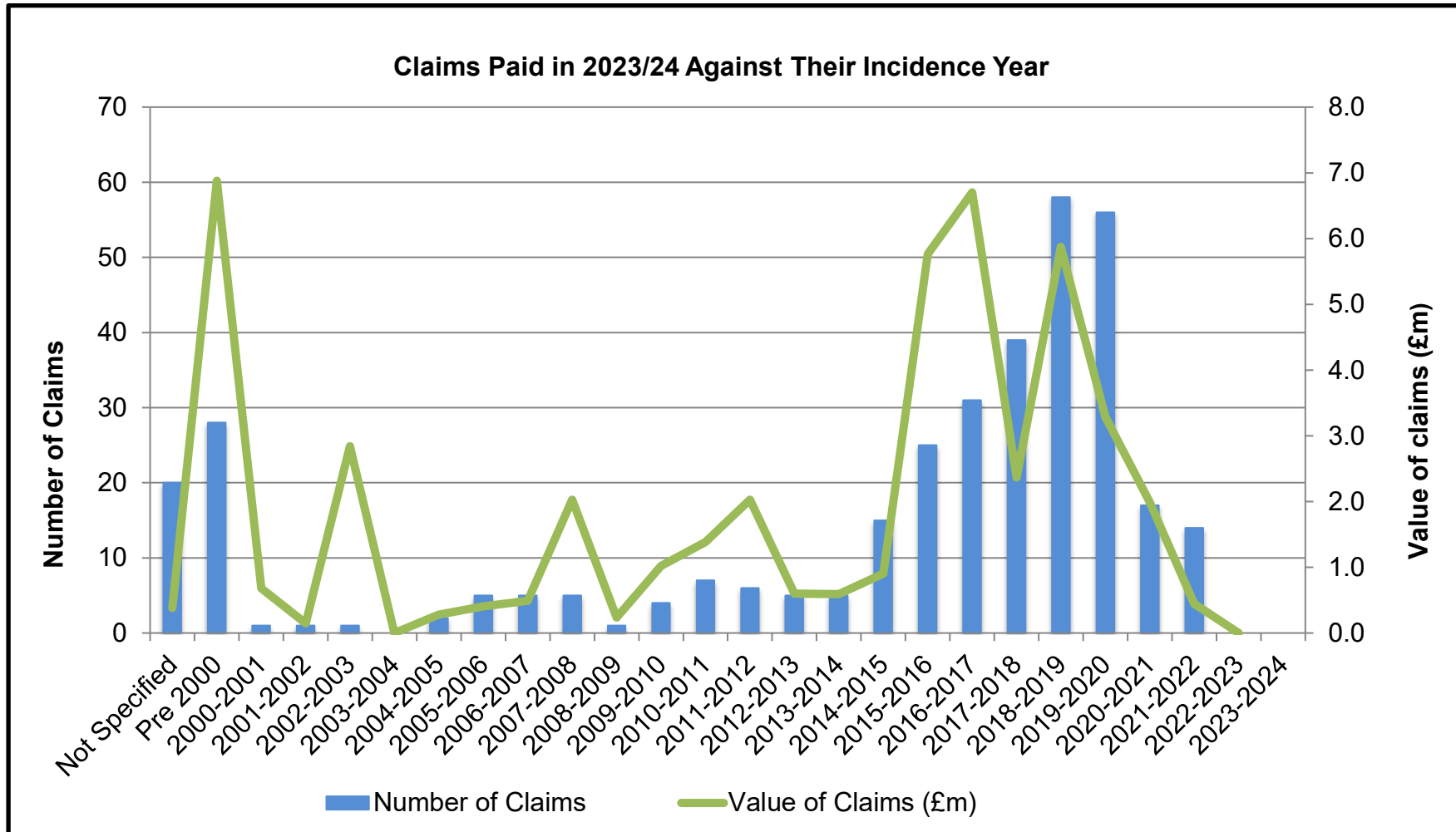
Below Members Submitted Less than 5 Claims for Reimbursement

<u>NHS Board</u>	<u>Value of Reimbursements (£)</u>	<u>Number of Reimbursements</u>
NHS 24		
NHS Education for Scotland		
NHS National Services Scotland		
NHS Shetland		
Scottish Ambulance Service		
The State Hospital		
Total Value & Number where <5	1,658,523	10
Grand Total	47,326,855	351

Incident Timeline

Graph 1 below provides a breakdown of all 2023-2024 reimbursements by the value and number of payments attributed by the financial year of the incident. Majority of payments related to claims settled more than 5 years after the incident occurred, with some settlements taking longer.

Graph 1: Claims Paid 2023-2024 by Year of Incident



Trends in Payments

Table 2 below shows the change in the numbers and values of CNORIS reimbursements paid over the last 10 years since 1st April 2014. This shows the variation in values and highlights how the increasing numbers of payments has not necessarily correlated to an increased value of payments. It can be observed that, over the last 10 years from 2014 to 2024, the average number of reimbursements paid is 340, with an average payment value of £51.68 million.

Table 2: Payments made since 2014-2024

Financial Year	Payment Value Clinical (£m)	Payment Value Non-Clinical (£m)	Total Payment Value (£m)	Number of Payments Clinical	Number of Payments Non-Clinical	Total Number of Payments
2014-2015	36.96	1.62	38.57	193	61	254
2015-2016	49.70	3.10	52.81	235	56	291
2016-2017	38.29	1.97	40.25	342	82	424
2017-2018	32.00	1.62	33.61	260	40	300
2018-2019	37.54	2.07	39.61	265	36	301
2019-2020	35.82	2.14	37.96	232	53	285
2020-2021	60.26	1.33	61.59	278	33	311
2021-2022	105.97	3.27	109.24	363	82	445
2022-2023	52.60	2.96	55.56	335	103	438
2023-2024	43.67	3.66	47.33	271	79	351
Total	492.81	23.74	516.53	2,774	625	3,400

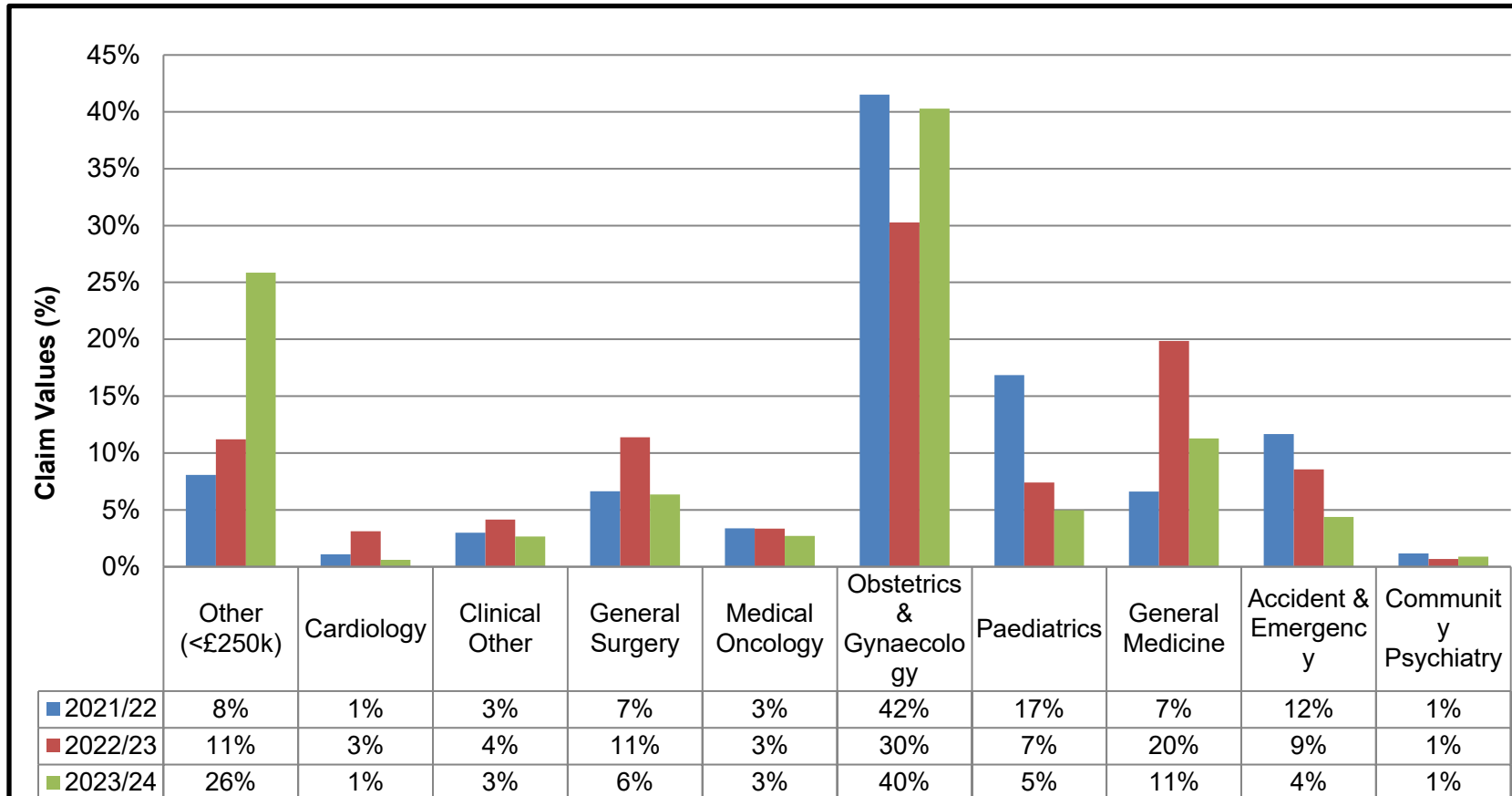
Out of the 351 reimbursement payments made in 2023-2024, 6 individual payments were £1 million or more.

Graphs 2 and 3 below show the percentage breakdown, by speciality, of the numbers and values of clinical claim reimbursements over the past three financial years (2021-2022, 2022-2023, and 2023-2024). Obstetrics and gynaecology reimbursement payments account for, on average, 37% of the value of all payment and 28% of the number of payments, made during these 3 years.

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The category "other <£250k" includes all clinical specialities where the claim value was less than £250,000 in any of the last three years. This category comprises 173 reimbursements across 30 specialities, totalling £24.50 million.

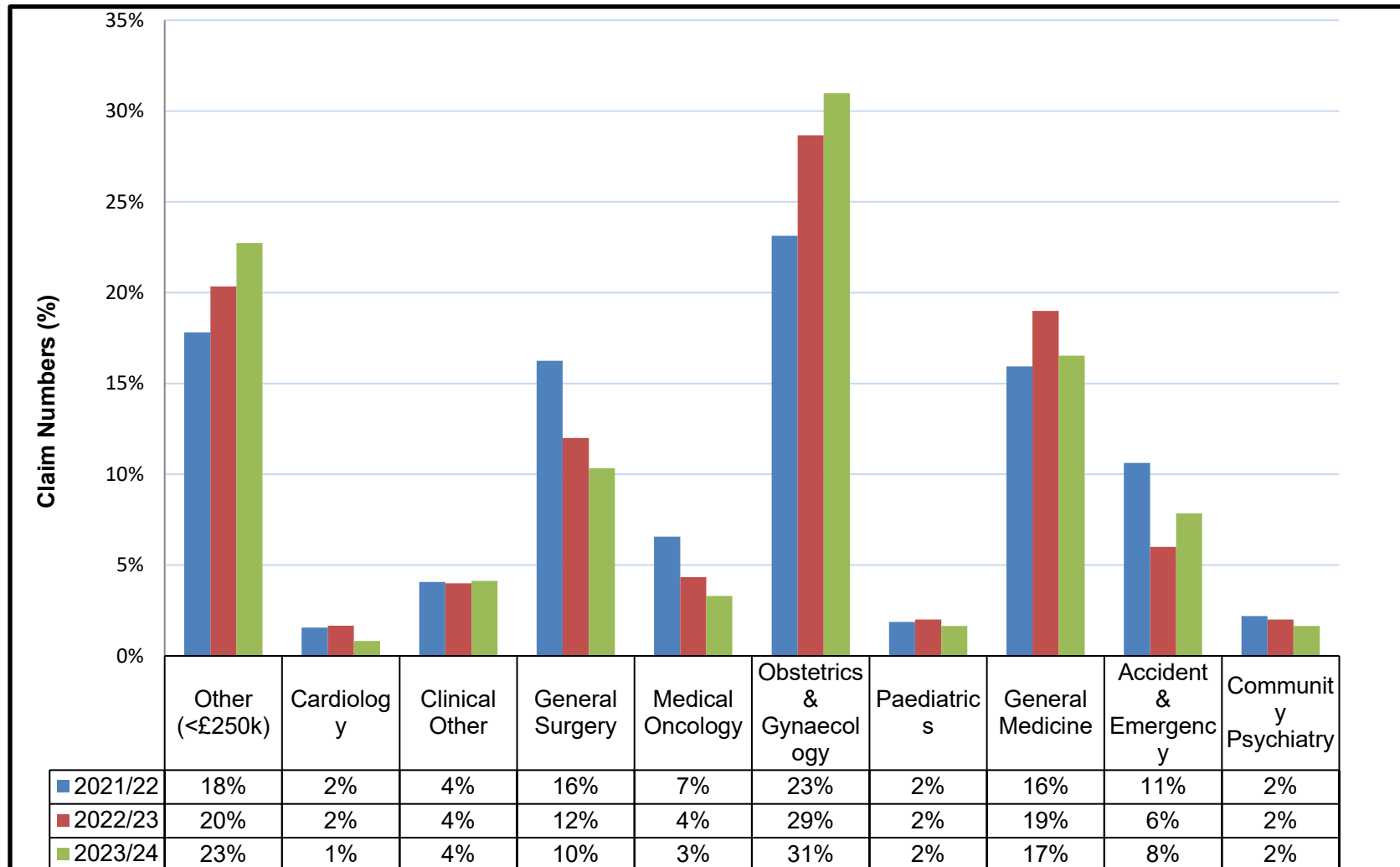
Graph 2: Value (%) of Clinical Claims Paid during 2021-2022 2022-2023 & 2023-2024 by Speciality*



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

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Graph 3: Number of Claim Payments made during 2021-2022, 2022-2023 & 2023-2024 by Speciality*



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

Periodic Payment Orders (PPOs) and Structured Settlements⁴ 2023-2024

PPO payments are paid to claimants periodically and, for most settlements, paid annually in December, with reimbursement to NHS Boards made within the following few months. During 2023-2024, there were 30 PPOs settlements reimbursed across 9 NHS Boards. The values reclaimed by NHS Boards from CNORIS during 2023-2024 totalled £6.9 million. The increasing number of PPOs will continue to affect the future profile of payments by CNORIS, with future years' payments also being subject to inflationary increases.

Contribution Rates

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

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

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

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

Analysis of Claims by Year of Incident and Year

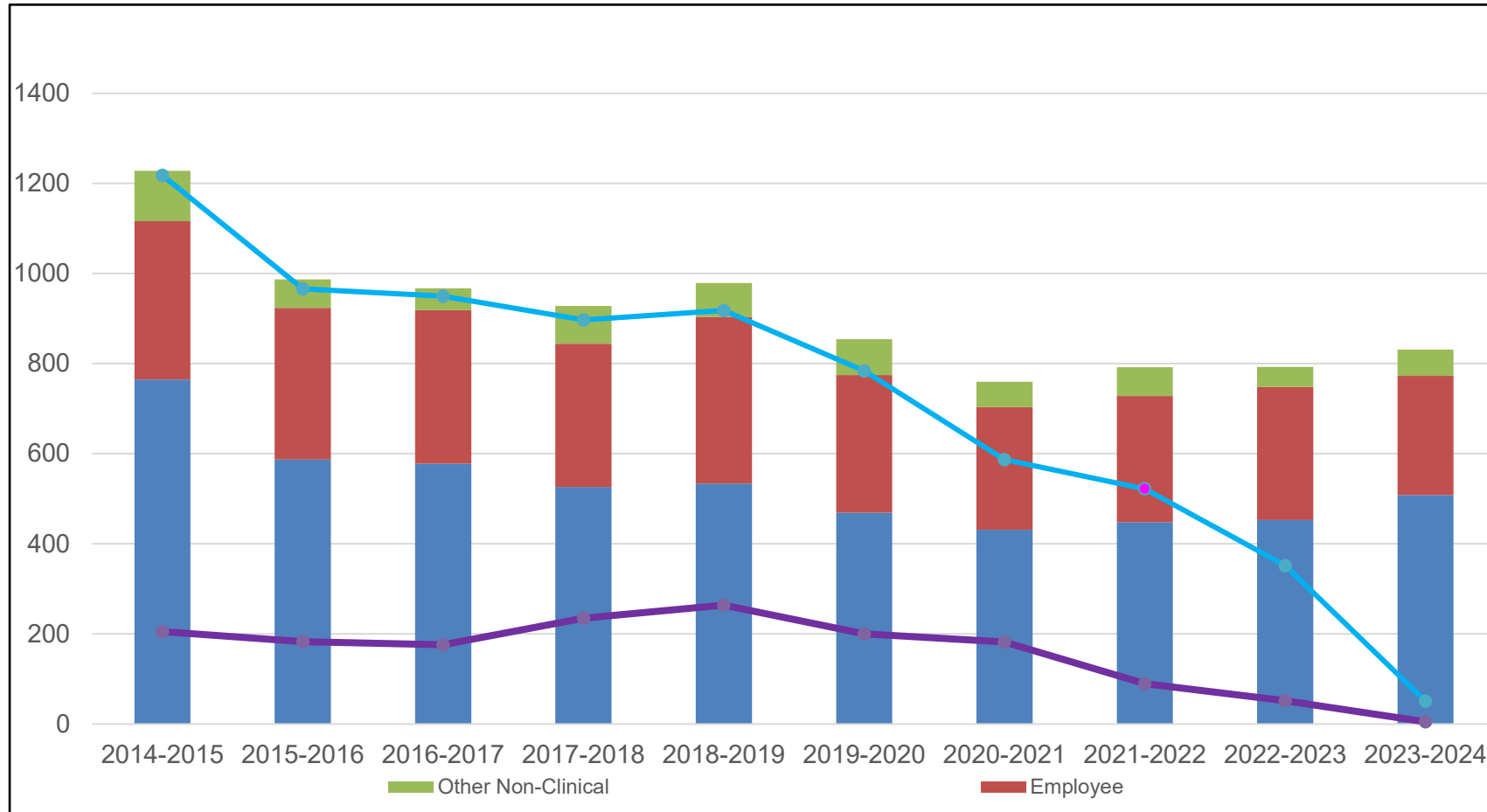
Graph 4 below provides a breakdown of the total number of litigation claims for compensation received by NSS CLO since 1st April 2014 by: Clinical (medical, nursing, and mental health care); Employee; and all other non-clinical claims. The graph also details the number of those claims that have been closed (light blue line graph) and those where the total costs, as of 31st March 2024 exceeded the CNORIS deductibles threshold of £25,000, irrespective of whether these costs have been reclaimed from CNORIS (purple line graph).

The graph shows that there has been a slight increase in the total number of claims received this year when compared with those reported last year; from 790 to 831. Similarly, the number of clinical claims has also increased slightly on last year, from 449 to 508, as have the number of non-clinical claims, from 47 to 58. However, there has been a decrease in the number of employee claims received when compared with last year, from 293 to 265.

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

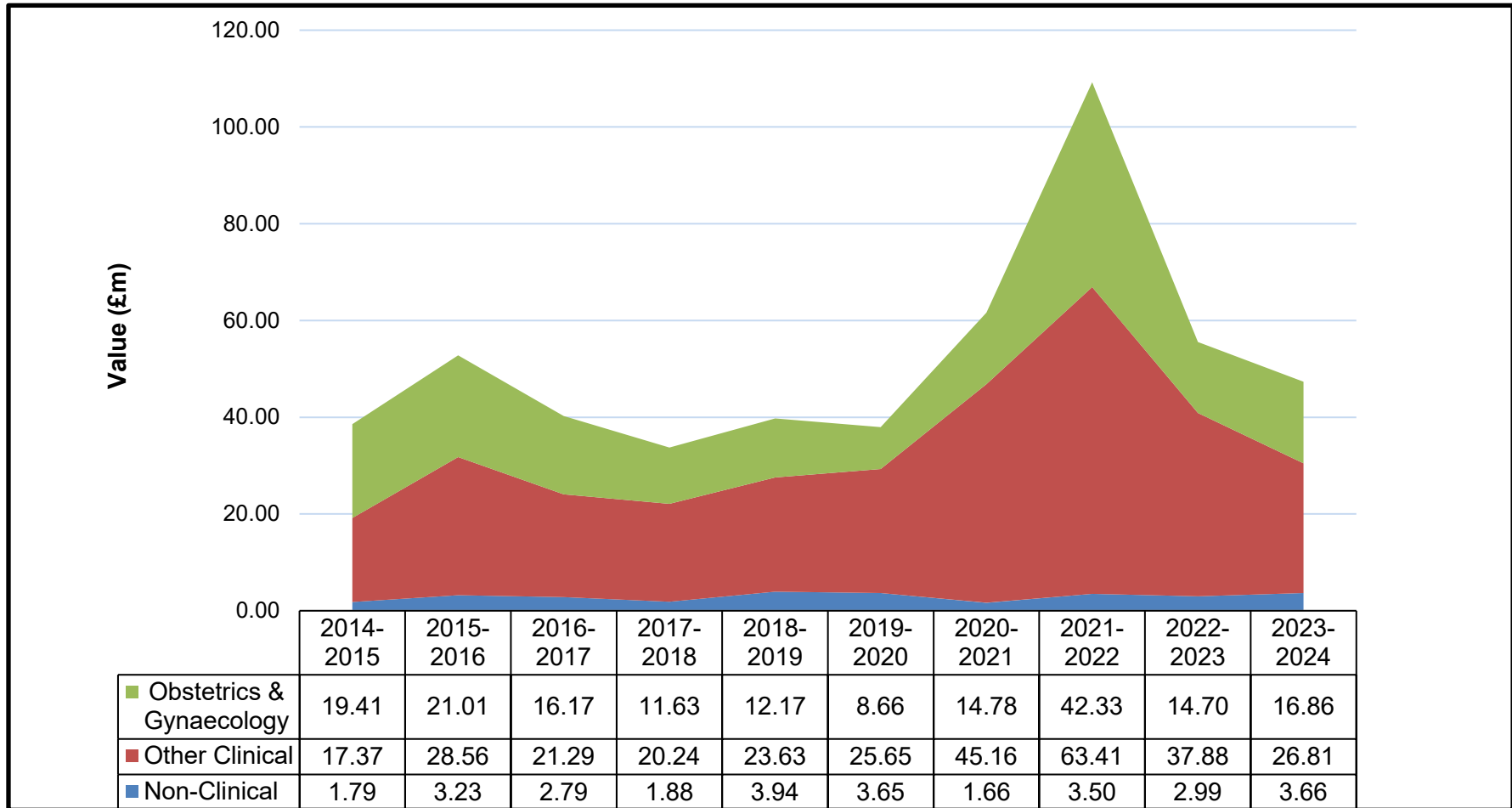
Graph 4: Breakdown of the Number of Claims Received by NSS CLO (as at 31st March 2024)



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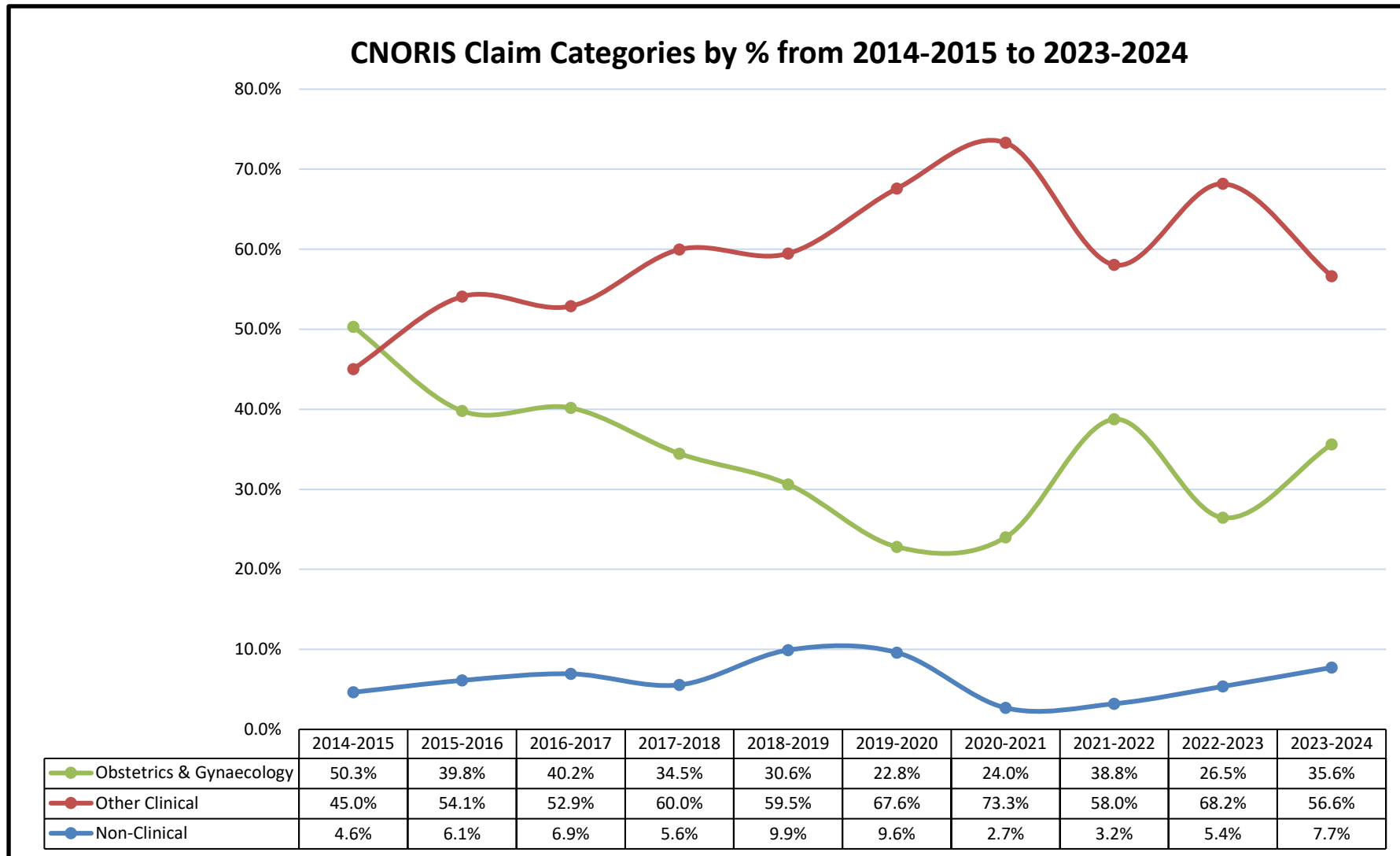
Graphs 5 and 6 below provide a breakdown of payments reimbursed by CNORIS between 2014-2015 and 2023-2024 (total value of net payments made was £516.79 million), in relation to whether the claim related to an obstetrics & gynaecology incident, another type of clinical incident or a non-clinical incident. Graph 5 is in monetary terms and graph 6 in percentage terms.

Graph 5: Breakdown of CNORIS Payments made between 2014-2015 and 2023-2024



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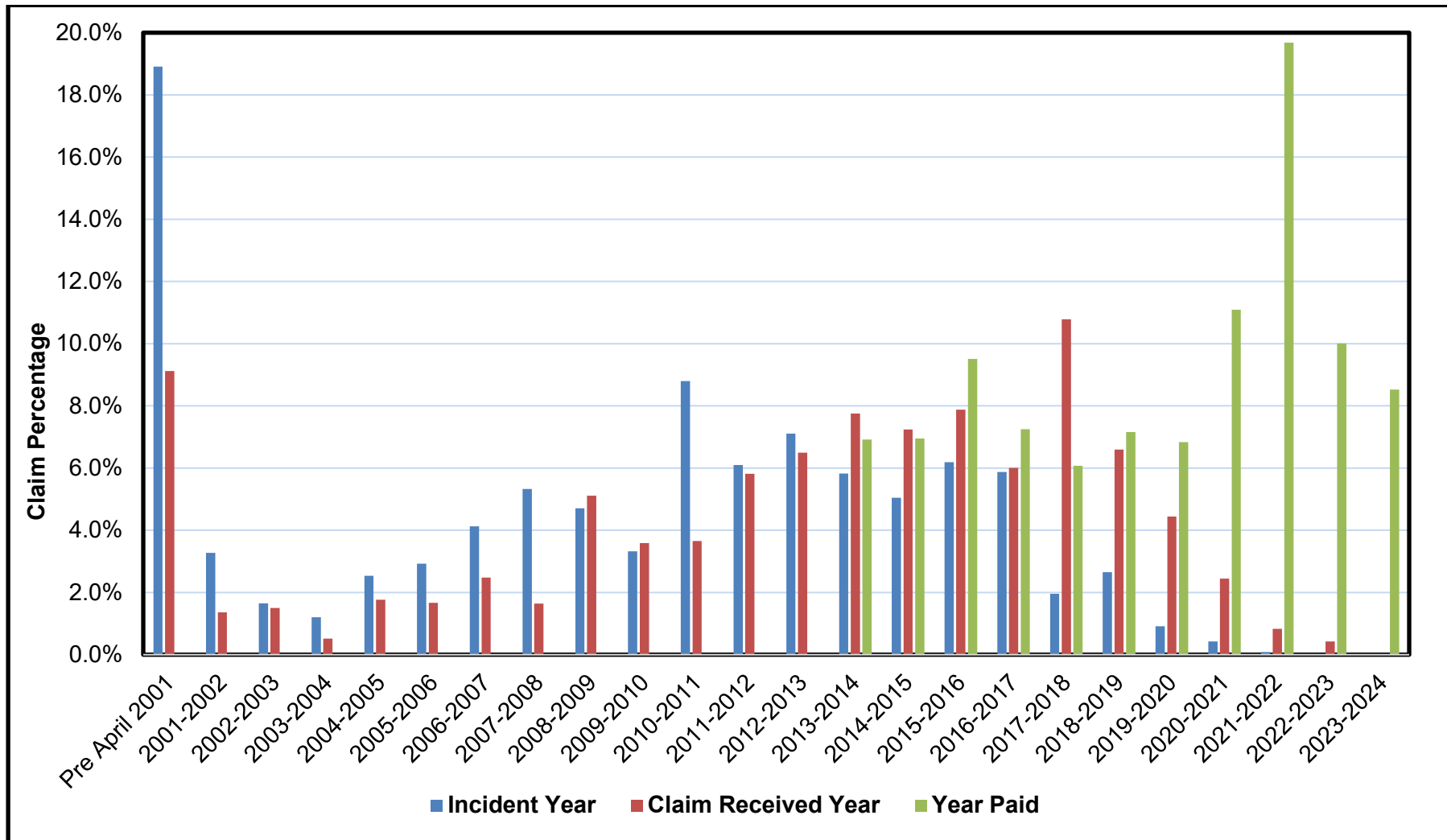
Graph 6: CNORIS Payments made between 2014-2015 and 2023-2024 (in Percentage Terms)



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Graph 7 profiles the same period, but provides an analysis in percentage terms, based upon the total value of reimbursements paid to health boards during the period 1st April 2014 to 31st March 2024, by the years in which incidents occurred and by the years in which CLO received these claims. This highlights how some claims can take many years to conclude.

Graph 7: CNORIS Payments (%) Between 1st Apr 2014 and 31st Mar 2024, Analysed by Year of Incident and Year Received



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For example, 18.9% of the total value of payments reimbursed by CNORIS during this period related to claims where the incident took place prior to 1st April 2001, with 9.1% relating to claims received by health boards prior to 1st April 2001.

For claims paid in 2023-2024, where dates are provided, the average period between the incident date and the date CLO received the claim was 3 years, with an average of 4.18 years between CLO receiving the claim to payments being reimbursed to health boards through CNORIS.

The median period between the incident date and the date CLO received the claim was 2.20 years with 3.69 years between CLO receiving the claim and the health board being reimbursed through CNORIS.

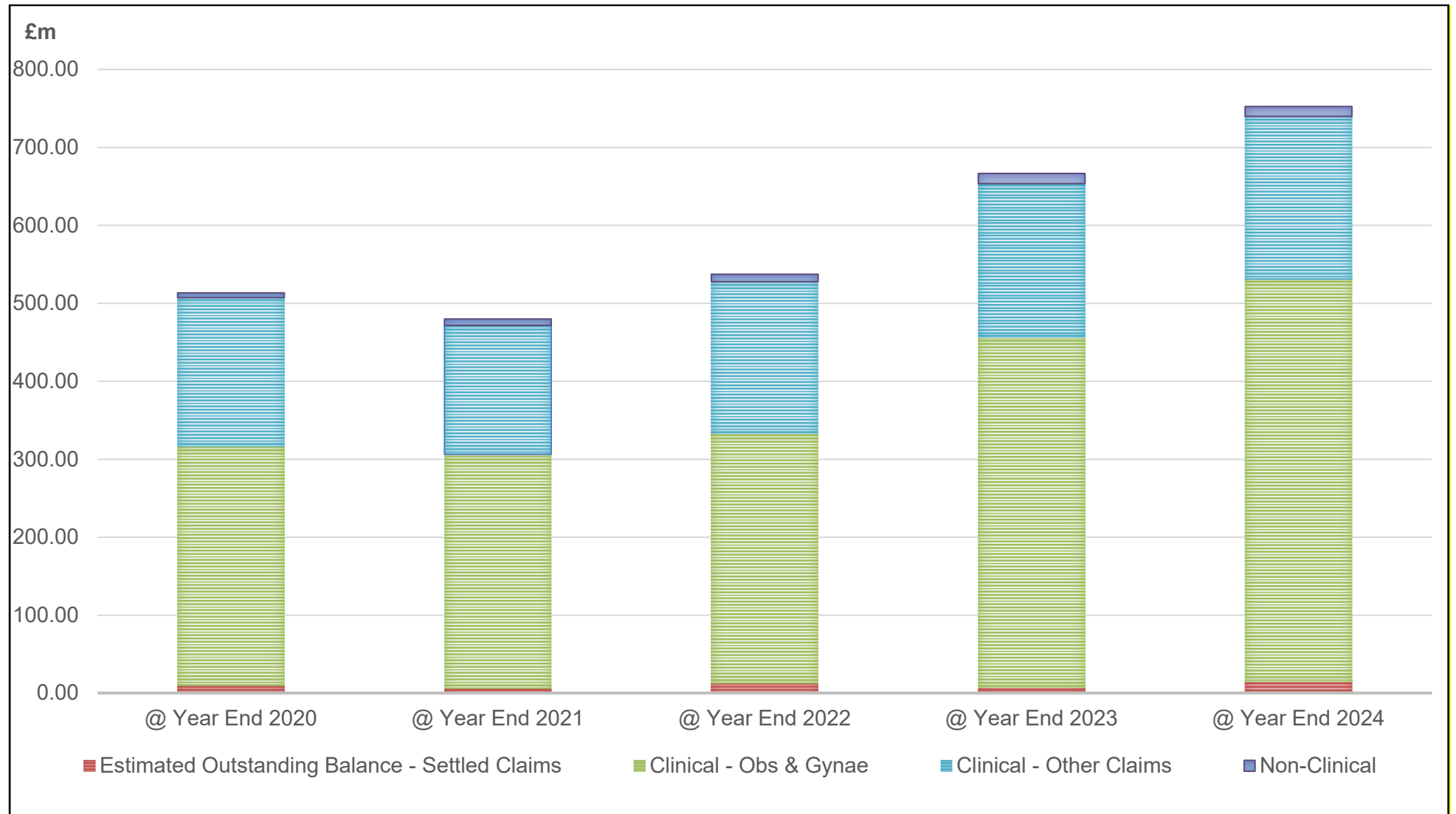
Pipeline Analysis

Graph 8 below is a pipeline analysis of the estimated values, adjusted for risk, of all open (unsettled) claims as at each year-end of the last five financial years (2019-2020 to 2023-2024), broken down by obstetrics & gynaecology claims, other clinical claims, non-clinical claims, plus the estimated outstanding balance of settled claims not yet closed. As of 31st March 2024, 34% of all open and not settled claims had an estimated settlement value, adjusted for risk, above the CNORIS £25,000 deductibles threshold, with 3% being currently estimated at over £1 million. This compares with 32% and 3% respectively for year ending 31st March 2023.

Claims are continually being reviewed as they progress through the legal process. Adjustments are made as required to the estimated settlement values, risk profiles and settlement dates. Therefore, although the total estimated values of claims have increased over recent years, they do not necessarily reflect actual or future CNORIS payments.

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



Appendix 1: Background, Definitions, and Key Delivery Partners

Background to the CNORIS Scheme:

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

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

Definitions of the CNORIS Scheme:

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

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

CNORIS Key Aims & Objectives:

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

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

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

NOTES

- 1 Membership of CNORIS is mandatory for all NHS Territorial and National Boards in Scotland and the Mental Welfare Commission for Scotland. The Scheme was also broadened with effect from 1st April 2015 to allow Integration Joint Boards (IJBs) and Local Authorities (LA) to become members of the Scheme at the discretion of the individual organisation. Refer to [Appendix 2](#) for a list of all CNORIS members as of 31st March 2024.
- 2 Through the Clinical Negligence and Other Risks Indemnity Scheme (CNORIS) members contribute annually to the CNORIS fund for meeting the award costs and legal expenses in regard to any claims for negligence pursued by patients, employees, third parties and members of the public.

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

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

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