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Medico-legal litigation of UK physiotherapists in relation to cauda equina syndrome: a multimethods study

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ABSTRACT

Objective The aim was to investigate the extent of cauda equina syndrome (CES) litigation and explore the process of medico-legal litigation in relation to physiotherapy in the UK.

Design A multimethods inquiry that followed on from a previously conducted scoping literature review was undertaken to address the aim. This included freedom of information requests and direct communication with relevant stakeholders and organisations.

Results A total of 2496 CES claims were found in the UK between 2012 and 2020. 51 of these were attributed to physiotherapists. There was little information available to physiotherapists regarding the legal process of litigation and much of this information was not from a physiotherapist's perspective.

Conclusion This is the first study that has investigated the extent and process of CES litigation in physiotherapy in the UK. The extent of CES litigation appears to be high considering CES is a rare spinal condition. Furthermore, the extent of CES litigation is suspected to be considerably higher than the data reported in this study due to the issues identified in how CES claims are recorded. Finally, there is no clearly articulated, easily accessible information describing the process and support available for physiotherapists in receipt of a legal claim.

STRENGTHS AND LIMITATIONS OF THIS STUDY

⇒ The multimethod design has enabled a comprehensive and holistic understanding of the issue.
⇒ A robust and rigorous methodology was used to answer the research aim.
⇒ The methods used may have led to an underestimation of the extent of physiotherapists involved in cauda equina syndrome litigation claims.

INTRODUCTION

Cauda equina syndrome (CES) is caused by compression of the cauda equina nerve roots.[1] It is a rare condition with a prevalence of 0.01%.[2] Delays in diagnosis and treatment of CES can have life-changing consequences for the patient and can lead to significant medico-legal consequences.[1 3] Delays are often caused by failure to recognise the signs and symptoms of the condition, waiting for MRI scans to be organised and delays in making referrals for surgical opinion.[4]

CES is highly litigious, with the (National Health Service (NHS) receiving 827 CES claims between 2008 and 2018 at a cost of £186 134 049.[5] It was reported that in England, 23% of litigation claims for spinal surgical procedures were CES related.[6] Moreover, Chacko[7] highlights that medical liability litigation is likely to increase stating: *'As patients become increasingly aware that doctors are more likely to lose when sued and that the courts are more likely to award larger settlements, the frequency with which doctors are sued will almost certainly escalate.'*

First contact practitioner is a new approach to the management of musculoskeletal conditions within the UK.[6 8] It aims to provide timely access to expert musculoskeletal physiotherapists without the patient needing an initial general practitioner (GP) appointment.[9] Therefore, physiotherapists are likely to become the first point of contact for an increased number of patients with CES. As such, physiotherapists are more likely to be involved in CES litigation cases. In addition to the consequences for patients, litigation can have many negative effects for the clinician, including stress and anxiety which can have prolonged effects over many years, contributing to decreased mental and physical well-being.[3]

It has been reported that 0.7% of CES claims involve physiotherapists.[10] However, due to the methods used in previous studies, it is likely that this number is under reported. Additionally, it remains unclear what guidance and processes are in place to support physiotherapists involved in litigation for CES.[10]

Therefore, the aim of this research was to investigate the extent of CES litigation and explore the process of medico-legal litigation in relation to physiotherapy in the UK.

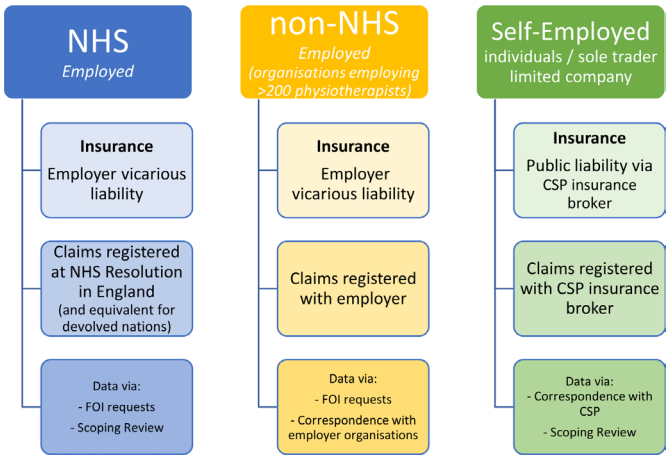

Figure 1 Pathway for litigation cases in physiotherapy and sources of data. CSP, Chartered Society of Physiotherapy; FOI, freedom of information; NHS, National Health Service.

METHODS

Design

To address the research aim, a multimethods inquiry was considered the optimal approach as the process of managing and recording litigation claims in the UK is dependent on the physiotherapist's employment status, that is, NHS employed, non-NHS employed or self-employed (see figure 1). As such, different methods were required to obtain data to supplement the data obtained in a previously undertaken scoping review,[10] including freedom of information (FOI) requests and direct communication with relevant stakeholders and organisations.

Summary of methods used

I. A scoping review had been conducted previously and published as a separate paper.[10]

This investigated the extent and legal process of CES claims for UK physiotherapists. A modified six-stage framework was followed for the scoping review.[11] Further detail on the methods can be found in the study protocol.[12] A total of n=1639 records were identified, following removal of duplicates and screening of titles and abstracts n=211 full-text records were screened and n=39 were included for full analysis.[10]

II. Personal communication with Chartered Society of Physiotherapy (CSP): to supplement the data from Beswetherick[13 14] obtained via the scoping review (method I), the research team contacted the CSP to seek detail of the information provided to its members regarding the legal process, and via a gatekeeper, requested data from their insurance broker relating to the extent of litigation for self-employed physiotherapists (figure 1). Data from 2012 to 2021 were collected. Data were requested for the date range 2015–2020 to enable data comparison. However, where more data were provided, this additional data have also been presented.

III. FOI requests: multiple FOI requests (total n=42) were submitted to NHS England, Northern Ireland, Scotland and Wales for NHS data (figure 1). The FOI requests related to the number of CES claims per year and the healthcare professional(s) cited in the claim. The claims were grouped into four categories relating to type of claim (table 1).

IV. Personal communication with large non-NHS employers: in order to obtain data for physiotherapists employed outside of the NHS (figure 1), the research team contacted non-NHS organisations who employed more than 200 physiotherapists in the UK, in order to retrieve extent claims data. Three organisations were identified. For the first employer, we were informed that a FOI request was required. The request was submitted and was identical to those sent to the NHS health boards (method III). The second organisation provided us with extent data following personal correspondence. The third organisation did not provide data. Therefore, to ensure anonymity, data were aggregated for the two non-NHS organisations.

Patient and public involvement

A patient and public involvement (PPI) representative has been involved from the inception of the study and throughout this research. They are one of the authors of this study and are a person living with CES. Additionally, a PPI group that includes three people living with CES (including someone undergoing a litigation case) helped to refine the research question, provided input into the design of the study and have given feedback on the study findings.

RESULTS

Extent of CES litigation in physiotherapy in the UK

Extent of CES litigation claim data obtained by the scoping review

With regards to extent of CES litigation, data from the previously conducted scoping review indicate there have

Table 1 Definitions of types of claim[10]

Type of claim	Definition
Open claim	Claims opened by litigation management department of local NHS trust
Closed claim	Conclusion made and claim closed
Potential claim	A claim that is under review but is not confirmed and may not progress to a clinical negligence claim
Confirmed claim	Claims that have all required information and have been confirmed as an active clinical negligence claim

NHS, National Health Service.

been 15 CES claims against physiotherapists between 2001/2002 and 2016/2017, which is 0.7% of all CES claims recorded in the UK.[10]

Extent of CES litigation claim data obtained by FOI requests and personal communication

To obtain extent data of CES litigation for staff employed in the NHS, a total 42 FOI requests were submitted to 14 NHS health boards (7 boards in Wales, 5 boards in Northern Ireland, 1 in England and 1 in Scotland; (table 2).

For extent data of CES litigation for staff employed outside the NHS, a request for data were submitted to three organisations identified as a non-NHS large employer of physiotherapists. Data were obtained from two of the three non-NHS organisations. These data were aggregated to ensure anonymity (table 2).

Extent data of CES litigation for self-employed physiotherapists were obtained via personal communication with the CSP (table 2).

A total of 446 CES claims were found across the three categories (NHS employed, non-NHS employed and self-employed). Of the 446 it was not possible to state how many of these claims involved physiotherapists for NHS-employed and non-NHS employed staff, as the data provided by these employers related to CES claims involving all healthcare professions. In these organisations, claims related to physiotherapy were either not recorded or could not be released for anonymity reasons. However, the self-employed group data relate solely to physiotherapy CES claims, of which there were 36 between 2012 and 2020.

Figure 2 shows there were a total of 395 NHS CES claims between 2015 and 2020. This data include claims for CES relating to all healthcare professionals and not solely to physiotherapists. The graph shows a peak number of claims between 2015 and2017.

The number of CES claims per year that involved self-employed physiotherapists is presented in figure 3. This data show an increasing number of claims up to 2015/2016 where the number of claims peak. Claims then begin to decrease, before starting to rise again in 2018/2019.

For the non-NHS employed group, raw data provided by one of the employers was as a total number for 2012–2021, thus the aggregated data for this group could not be displayed at yearly time intervals (table 2).

Table 2 Number of CES claims retrieved from FOI requests and personal communication

Employment category	Location submitted	Number of CES claims per year
NHS	NHS England	2015/2016: n=113 2016/2017: n=110 2017/2018: n=65 2018/2019: n=26 2019/2020: n=19
NHS England total 2015–2020 n=333 (population 56.3 million. ONS)		
NHS	Scotland	2015/2016: n=<5 2016/2017: n=<5 2017/2018: n=<5 2018/2019: n=6 2019/2020: n=<5
NHS Scotland total 2015 – 2020 n =10* (population 5.5 million. ONS)		
NHS	Wales	2015/2016: n=4† 2016/2017: n=8† 2017/2018: n=6† 2018/2019: n=4† 2019/2020: n=7†
NHS Wales total 2015–2020 n=29† (population 3.2 million. ONS)		
NHS	Northern Ireland	2015/2016: n=5‡ 2016/2017: n=4‡ 2017/2018: n=2‡ 2018/2019: n=8‡ 2019/2020: n=4‡
NHS Northern Ireland total 2015–2020 n=23‡ (population 1.9 million. ONS)		
Non-NHS	two non-NHS large employers of physiotherapists	2012–2021: n=15§
Non-NHS large employer total 2012–2021 n=15		
Self-employed		2012/2013: n=1 2013/2014: n=4 2014/2015: n=6 2015/2016: n=10 2016/2017: n=6 2017/2018: n=1 2018/2019: n=2 2019/2020: n=6
Self-employed physiotherapists 2012–2020, n=36		
Grand total=446		

*Where < is indicated, these were calculated as n=1.
†Includes aggregated data for seven health boards; where data were recorded <5, these were calculated as n=1.
‡Includes aggregated data for five health boards, where data were recorded <10, these were calculated as n=1.
§Data from two Non-NHS employers were aggregated to ensure anonymity of the data.
CES, cauda equina syndrome; ONS, Office for National Statistics.

Process of CES litigation in relation to physiotherapy in the UK

With regard to the legal process, there was no clearly articulated overarching information for the UK describing the process of litigation for physiotherapists. From the previously conducted scoping review (method I), 11 records related to the CES legal process, 5 of these were specifically associated with physiotherapy and were from the CSP website (https://www.csp.org.uk/).[10] These related to insurance for physiotherapists and whom physiotherapists should contact if they become involved in a claim. One record gave advice on how to write a legal statement.

Through personal communication with the CSP (method II), it was clarified that the CSP are only involved

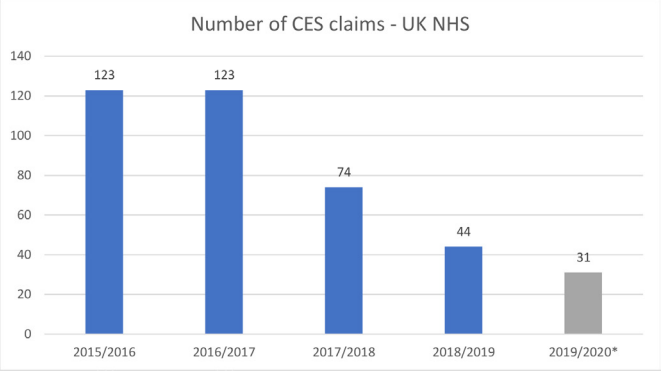

Figure 2 Number of CES claims per year for all healthcare professionals in UK NHS (England, NI, Scotland, Wales). *Data collected during 2020 therefore, some data may be incomplete depending on reporting periods. CES, cauda equina syndrome.

in providing support for litigation cases for self-employed physiotherapists. For employed physiotherapists (NHS and non-NHS), their employers are vicariously liable for CES claims by their employees in the course of their employment.

Information provided via a CSP gatekeeper (method II), described the litigation process followed by the solicitor firm used by the CSP. The information highlights three elements that the claimant must prove for negligence in healthcare:

1. that their healthcare practitioner owed a duty of care.
2. that their healthcare practitioner was in breach of the duty of care.
3. that as a result of this breach, an injury or loss has been suffered.

Each of these three elements must be demonstrated in order for the claim to be successful. An infographic summarising the five-step process of clinical negligence claims for healthcare professionals in the UK, including those relating to CES litigation and physiotherapy, has been created to illustrate this process (figure 4).

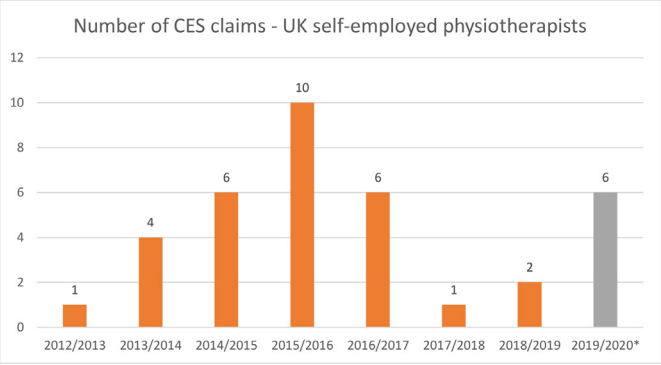

Figure 3 Number of CES claims per year for UK self-employed physiotherapists in UK (England, NI, Scotland, Wales). *Data collected during 2020 therefore, incomplete data presented for this time period. CES, cauda equina syndrome.

Duty of care means that the healthcare practitioner must provide 'reasonable care'. This is based on medical judgement whereby if a healthcare practitioner is treating their patients in accordance with an approved medical practice, they cannot be found negligent. This is known as the Bolam test.[15] Importantly, the healthcare practitioner must follow a reasonable and reputable body of medical opinion, and the court must be satisfied that the medical body used by the practitioner can prove that their decisions are reasonable. Furthermore, the healthcare practitioner must ensure that their patient is aware of any material risk to ensure they obtain informed consent prior to treatment.

If the claimant can fulfil these conditions, then a pre-action protocol follows. The pre-action protocol allows for negotiations to take place to avoid unnecessary court proceedings. The pre-action protocol highlights that NHS Resolution should be involved at an early stage in the claim process to facilitate a resolution of the dispute.[16] NHS Resolution is an arm's-length body of the Department of Health and Social Care in England. They provide expertise to the NHS on handling negligence claims, resolving disputes and sharing learning from litigation.[17]

Claims can be resolved in multiple ways. Options for resolving disputes include discussion and negotiation, mediation and arbitration.[16] Settlement offers can be made informally; round-table meetings can be convened between the councils for the defendant and the prosecution; mediation can be organised with solicitors and an impartial mediator.[18] While most cases are resolved through this process, where a dispute has not been resolved, court proceedings may be issued against the healthcare practitioner.[18] If the claim goes to court trial, the Judge will decide whether the claim succeeds and on what grounds. If the claimant is successful, the Judge will decide how much compensation should be paid.[16] Depending on the complexity of the case, a clinical negligence claim may take approximately 18 months to settle.[18]

Physiotherapists may be involved in a claims process as a witness of fact. This is where the treating physiotherapist comments on their treatment records and their recollection of the facts as they recall them.[19] It is important to note that no training is required by the physiotherapist to be a witness of fact and they cannot decline the request to be involved.[20] Furthermore, physiotherapists can be involved in a litigation case as an expert witness, who is independent of the patient. Physiotherapists may choose to take up work as an expert witness for the prosecution or defence if they have expertise in certain areas of physiotherapy. An expert witness can accept or decline a request to provide a report for the case. Expert witnesses must be practising their profession, which can be in any context, including through direct patient care, education or research. They are required to have additional training for clinical negligence report writing and in order to understand their role and responsibilities as an expert witness.[20]

Figure 4 Litigation process.

The claim process consists of two phases: the preclaim phase and the claim phase. Figure 5 summarises the process of the different phases of a claim that an NHS employed healthcare professional can be involved in. In the preclaim phase, the legal team for the claimant contacts the healthcare professional's employer to undertake preliminary checks. This includes considering if there was a duty of care and whether there was a breach of the duty of care (figure 4). If this is not found, then the case does not proceed. It is during this phase that many claims are dropped. During this phase, the healthcare professional involved may not have been notified of the potential claim. Where there appears to be grounds for a case to proceed, the claim phase begins. When a letter of claim is received, this may be the first time the healthcare professional becomes aware of the claim.

DISCUSSION

Extent of CES claims

The extent of CES claims was investigated through multiple methods. From all methods, the total CES claims recorded in the UK between 2012 and 2021 was 2496. Of these, 51 CES claims could be specifically attributed to physiotherapy (15 from method I, 36 from methods II–IV).

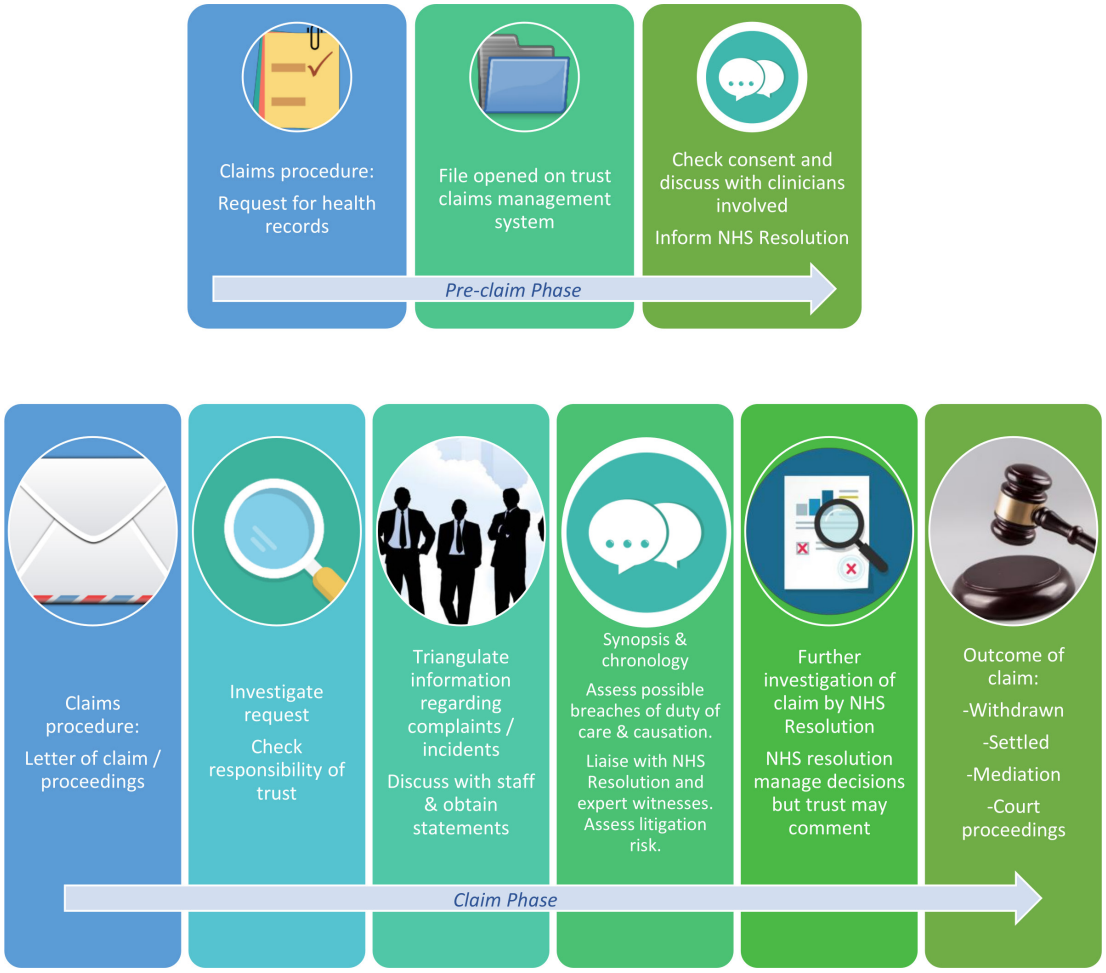

Figure 5 NHS process for phases of litigation claim (adapted from Machin *et al*[37]).

From methods II–IV, a total of 446 CES claims in the UK were recorded between 2012 and 2021. This number is comprised of 395 claims against all NHS healthcare professionals between 2015 and 2020, 36 CES claims relating to self-employed physiotherapists between 2012 and 2020 and 15 CES claims for all healthcare professionals from the non-NHS employed group between 2012 and 2021.

The previously conducted scoping review (method I) identified records dated between 2009 and 2020, which included a total of 2050 CES claims.[10] Results from the scoping review found that CES extent claim data were mostly NHS based. Data for NHS based studies were obtained via FOI requests to NHS Resolution (or its predecessor the NHS Litigation Authority). Data that included both NHS and non-NHS came from the Medical Protection Society, Medical Defence Union or the CSP.[13 21–25] Awards for CES claims frequently ranged between £200 000 and £400 000, however some were much higher, at over 1.5 million.[26] There was not enough data to distinguish how the sums awarded in damages against physiotherapists compare to other professions such as GPs or surgeons.[10] The findings from the scoping review highlighted that failure or delay in diagnosis was often the top factor which led to the most expensive CES claims.[10 14 26–28] Results from the scoping review found that only 15 (0.7%) claims were specifically identified as physiotherapy related, all of which were solely related to self-employed physiotherapists due to the focus of that study.[10]

Challenges to obtaining CES litigation data

Obtaining data to ascertain the extent of CES litigation in relation to physiotherapy was complex and lengthy. Furthermore, the claims data obtained for this study were not consistently reported. This was largely due to varying time periods in which the claims were recorded. In addition, how CES claims were recorded varied across the UK and were also inconsistently recorded within the NHS and other institutions.

Data obtained from the NHS were via FOI requests. When submitting FOI requests to the NHS, several issues became apparent. The main issue was the overall fragmentation and subsequent opacity of the system leading to submission of 42 separate FOI requests. The process for submitting FOI requests was unclear and inconsistent across the devolved UK administrations, making it difficult to retrieve data. It is interesting to note that on the Information Commissioners Website for the UK titled 'How to access information from a public body' there is no suggestion that differing processes may need to be employed for FOI requests across the devolved UK administrations.[29]

Recording of CES claims

NHS data for England were retrieved via FOI requests to NHS Resolution. Due to the way claims were recorded in the NHS Resolution database, CES cases were not able to be specifically identified. Litigation cases were categorised against a predefined cause, injury or specialty code, of which CES was not one.[30] Therefore, CES was not recorded as the nature of the claim, instead CES was included within a broad category, such as 'nerve damage', thus making it unclear how many claims were actually CES related.[10 31] Considering the extent and large costs associated with CES litigation it is surprising that there is no specific CES coding within the NHS Resolution database.

Consequently, to identify CES cases in the NHS in England, a review of each individual litigation case would be required to determine if it was a CES case. As the cost to do this would exceed the cost compliance limit (£450) for FOI requests, the FOI request can be rejected on these grounds.[32] In this study, the initial FOI request to NHS Resolution for CES data were rejected due to this. However, as part of an ongoing review of NHS claim data, NHS Resolution subsequently undertook a 'deep dive' of CES claims data, which meant that a later FOI request submitted by us was successful. However, in the absence of the NHS Resolution deep dive review, this data would not have been available. This potentially has serious implications for the NHS. Healthcare professionals who are unable to access data are unable to identify what the issues are and the extent of the problem. Moreover, they are unable to learn from litigation claims and where they can make a difference to improve patient care. Therefore, it is essential that this data are more readily available. As such it is recommended that the recording of claims within the NHS Resolution database is reviewed as a matter of urgency.

Recording of the healthcare professional

A further challenge to understanding the extent of CES litigation in relation to UK physiotherapy, was the healthcare professional the claim concerned was not recorded by most organisations. Requests for this information were not provided by most NHS and non-NHS organisations due to this. Therefore, it was not possible to provide exact numbers or an analysis of the CES claims that physiotherapists were involved in. The only data collected which confirms physiotherapists involvement in the CES claims was that of the self-employed group, provided by the CSP (the professional body for physiotherapists) and as such, only this data are specifically attributed to physiotherapists. Consequently, the data presented in this study are likely to be a significant underestimation of the extent of physiotherapists involved in CES litigation claims, which is a limitation of the study. Furthermore, not having an understanding of the healthcare professionals involved in these cases limits the effectiveness of any initiatives to address this issue. Therefore, it is recommended that the primary healthcare professional(s) involved in litigation cases are recorded within the claims database.

Recording of claims across the UK

For the NHS, understanding the extent of CES litigation across the UK presented further challenges. It was unclear

at the outset of this study, that each of the devolved administrations within the UK had its own separate process for submitting FOI requests. For England, requests for data were sent to NHS Resolution who had a transparent process for submitting these requests. Obtaining information about the organisation to submit FOI requests to Northern Ireland, Scotland and Wales was much less clear and it was difficult to find this information in the public domain. Additionally, Wales and Northern Ireland required a separate FOI request to each of the individual health boards (seven health boards for Wales, five for Northern Ireland). Therefore, having an equivalent body to NHS Resolution for the devolved UK administrations is recommended to facilitate the recording of claims across the UK.

Terminology of records

There may also be differences across the UK and different organisations as to what is counted as a CES 'claim'. For some, a claim may be recorded if the claim is a potential claim, for others it is only recorded once it is a confirmed claim (see table 1). Furthermore, records retrieved seldom stated if claims were open, closed, potential or confirmed, which affects the accuracy of CES claims extent data reporting.[10]

A difficulty in aggregating the data to present an overview of CES claims for the UK included, the period the claims relate to, which were different across the UK, with some running in line with the calendar year (January to December), and others in line with the fiscal year (April to March). Furthermore, some health boards/organisations gave data broken down into years and others aggregated their data over non-standardised time periods, meaning data could not be compared across data sets.

For NHS health boards there were also inconsistencies in the way the number of CES claims were displayed, as some health boards did not disclose low number of CES claims in order to ensure anonymity, whereas others did. Some health boards used a threshold of <5 when displaying low number of claims and others used a <10 threshold. For the purposes of this study, where undisclosed figures using the thresholds <5 or <10 were provided, only one CES claim was counted and presented in the results to ensure the number of claims were not overestimated. As such, CES claims data are likely be higher than the data recorded in this current study.

Process of medico-legal litigation

There was little information found from the previously conducted scoping review regarding the process of medico-legal litigation for physiotherapists.[10] Furthermore, this information was difficult to find. Eleven records were identified, with five specifically related to physiotherapy, from the CSP website.[10] These web pages discussed what physiotherapists should do if a complaint was made against them under various circumstances and who they should contact in relation to their claim.[33] However, the physiotherapist would need to search for this information across different parts of the website.[10]

Additionally, the support process for physiotherapists differs depending on who the physiotherapist is employed by (figure 1). However, this remains unclear to physiotherapists seeking support. In the UK, the professional body for physiotherapy is the CSP, with the regulatory body being the Health & Care Professionals Council (HCPC). While the HCPC investigates professional conduct complaints against physiotherapists, they are generally not involved in CES litigation and as such do not provide guidance or support for the litigation process. However, it is not clear that the HCPC do not deal with medico-legal claims. Furthermore, it is unclear that the CSP are only involved in supporting self-employed physiotherapists through the litigation process, providing professional liability insurance for clinical negligence (malpractice) claims as part of the physiotherapists' membership. Self-employed physiotherapists who are not members of the CSP are required to obtain their own clinical negligence insurance. The CSP do not support NHS employed and non-NHS employed physiotherapists, who instead, are supported by their employer who provides vicarious liability insurance for clinical negligence claims. This lack of transparency may cause frustration and confusion for the physiotherapist when seeking initial support, who may assume that it is the professional and regulatory body who provides such support. This lack of clarity around entitlement to support could cause stress and anxiety to the healthcare professional.[34]

There seems to be a clearer legal process and support for other healthcare professions such as doctors and surgeons. For example, organisations such as the General Medical Council (independent regulator for doctors in the UK) have information on their website regarding their 6-month process for concerns about doctors and their investigation process following a complaint.[35] Therefore, it is recommended that advice and support structures regarding litigation for physiotherapists should be of a similar standard to those of other autonomous healthcare professions.

With regards to legal costs in the UK (England and Wales), a conditional fee arrangement was introduced in 2013 for clinical negligence claims.[36] Commonly known as 'no win, no fee', it means the claimant can make a compensation claim without paying solicitors' fees upfront. If the claim is successful the solicitor can recover their legal costs from the damages payable to the claimant, which can be up to 25% of the total damages awarded. If the case is unsuccessful, the claimant does not pay any legal fees.[36]

Strengths and limitations

The use of multiple methods has enabled a holistic understanding of the extent and process of CES litigation in the UK with regard to physiotherapy. However, due to the issues highlighted in this study with how CES data are recorded, the data presented in this study are likely to be

a significant underestimation of the extent of physiotherapists involved in CES litigation claims.

CONCLUSIONS

This is the first study that has investigated the extent and process of CES litigation in physiotherapy in the UK using a range of methods. For all methods, between 2012 and 2020 a total of 2496 CES claims were found. The extent of CES litigation appears to be high considering that CES is a rare spinal condition. A total of 51 CES claims were attributed to physiotherapists. However, it is difficult to establish the true extent of CES claims relating to UK physiotherapists under the current fragmented reporting methods. The extent of CES litigation is suspected to be much higher than the data uncovered during the current study due to the recording of CES claims.

During the multimethods inquiry it became apparent how unclear it may be for physiotherapists who are in receipt of a CES claim as there is no clearly articulated, easily accessible information describing the process and support available to them.

RECOMMENDATIONS

1. For NHS databases CES needs to have its own specific category for accurately recording claims. Furthermore, the primary healthcare professional(s) cited in the litigation case should also be recorded, in order to facilitate greater understanding of the professions involved in CES claims. For all categories (NHS, non-NHS and self-employed) claims data should specify if their data relate to a calendar year, fiscal year or other and what they count as a claim that is, do they include open/closed and potential/confirmed. This would provide more transparent data and allow for accurate data analysis in future.
2. The process for submitting FOI requests across the UK needs to be made clearer and more transparent. Having an equivalent body to NHS Resolution, for the devolved UK administrations is recommended.
3. Organisations, such as the CSP could provide clearer information on the pathway for physiotherapists in receipt of a litigation case and the support available. A single repository of clear information regarding the legal process for physiotherapists involved in claims is advised. It should be made clear that there is support for physiotherapists regardless of their employer, however where this support comes from differs based on their employment (NHS employed, non-NHS employed, self-employed).
4. Although the HCPC is not involved in the litigation process for physiotherapists, they should make this much clearer. It is anticipated that physiotherapists would assume the professional regulator would be involved in the litigation process and so the HCPC should anticipate that they will get more enquiries regarding this as litigation rises.

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Contributors GY, SG and JS designed the study. GY, SG and RL acquired the data. GY, RL, SG, EW and JS undertook data analysis and contributed to interpretation of data for the work. GY, RL, SG, EW and JS contributed to drafting and revising the manuscript. GY, RL, SG, EW and JS are accountable for all aspects of the work in ensuring that questions related to the accuracy or integrity of any part of the work are appropriately investigated and resolved. GY is the author responsible for the overall content as the guarantor.

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Competing interests None declared.

Patient and public involvement Patients and/or the public were involved in the design, or conduct, or reporting or dissemination plans of this research. Refer to the Methods section for further details.

Patient consent for publication Not applicable.

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