



Resolution

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FOI_6189

The following information was requested on 18 September 2023:

INFORMATION REGARDING CAUDA EQUINA SYNDROME (CES) CLAIMS

In accordance with the Freedom of Information Act 2000, please provide us with the information below for each of the following years: 2018/2019, 2019/2020, 2020/2021, 2021/2022 and 2022/2023.

- 1. The number of legal claims for clinical negligence relating to CES under all NHS Resolution Indemnity schemes.*
- 2. The number of CES cases settled with damages paid.*
- 3. The total damages in CES cases settled.*
- 4. The number of CES cases settled with damages broken down by speciality and codes.*
- 5. The number of CES cases settled at the Pre-Action stage.*
- 6. The number of CES cases settled post-issue of proceedings but before trial.*
- 7. The number of CES cases settled with damages paid following trial.*
- 8. The total number of CES cases that were abandoned with no damages paid and any associated legal costs.*

Our Response to your specific request

Although NHS Resolution may hold some information relating to claims such as these, due to the way claims are recorded on our claims database, we will not be able to identify such specific cases. It might be helpful to explain that when claims are notified to NHS Resolution they are categorised against pre-defined cause, injury and speciality [codes](#), unfortunately *Cauda Equina* is not one of these. Therefore, while there may be information held in our records, we are not readily able to identify the relevant files by searching the database. To do so would involve a review of all cases to identify which ones relate to claims involving *Cauda Equina*. NHS Resolution receives thousands of claims each year.

Therefore, we estimate that the cost of complying with the request in its entirety would exceed the 'appropriate limit'. Section 12(1) of the FOIA is a provision which allows a public authority to refuse to comply with a request for information where the cost of compliance is estimated to exceed a set limit (known as the 'appropriate limit'). The

'appropriate limit' for NHS Resolution is £450. This equates to 18 hours of work at the rate of £25 per hour set out in the 'Fees Regulations'.

We estimate that it would take on average 10 minutes to locate, retrieve and extract the requested information from an individual file. It may therefore be the case that we would be able to examine only 108 files within 18 hours.

In addition, given the complexity of clinical negligence claims and their litigation, it is possible for a single electronic or paper-based file to contain hundreds of documents in a variety of formats.

Please also note even if we were able to carry out a review of 108 random files, we may not be able to provide you with the level of detail you require owing to Data Protection grounds.

We would need to suppress low numbers or any information that could possibly lead to the identification of claimants, patients or individuals where disclosure would breach the General Data Protection Regulation.

Please refer to our NHS Resolution leaflet '[Did you know – Cauda Equina Syndrome](#)' the leaflet produced in 2016 [here](#) for some information on this topic.

We have also produced an updated version which covers the period from January 2008 to December 2018, please see [here](#).

Additionally, GIRFT produced a report. <https://gettingitrightfirsttime.co.uk/wp-content/uploads/2019/01/spinal-surgery-report.pdf> which covered **Cauda Equina**.

If you would like to know how data is categorised in our Claims database please see the following link: [Glossary](#)

This concludes our response to your request.

If you are not satisfied with the service that you have received in response to your information request, it is open to you to make a complaint and request a formal review of our decisions. If you choose to do this, you should write to [Tinku Mitra](#), Deputy Director of Corporate and Information Governance, Data Protection Officer for NHS Resolution, within 28 days of your receipt of this reply. Reviews of decisions made in relation to information requests are carried out by a person who was not involved in the original decision-making about the request.

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner for a review of the decision. Generally, the Information Commissioner will not make a decision unless you have exhausted the local complaints procedure. The address of the Information Commissioner's Office is:

Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

<https://ico.org.uk/>