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November 2023

FOI_6155

The following information was requested on 31 August 2023:

All questions relates to the clinical negligence scheme (CNST)

1. In the 2022-2023 financial year please state which ten legal firms received the most money from the NHSLA in relation to claimant costs for the clinical negligence scheme (CNST) ? For each of the ten firms please state how much money they received in relation to claimant costs for the clinical negligence scheme (CNST) in the financial year? For each firm also please state how many claims this represents, and the damages that were paid in these cases.

2. In total how much money was paid in legal costs in 2022/23 and how this was divided between NHSLA legal costs and claimants' legal costs? How does this total figure compare with previous years' figures?

3. What was the biggest settlement to a legal firm in respect of claimant's legal costs for a single case that was settled in 2022/23? For that case please state the amount of damages paid, the claimant's costs and the name of the legal firm in question and the NHSLA 'S legal costs associated with the case. Please state if the case was settled following a court hearing or not and what the injury was that the patient suffered from.

4. In relation to only those cases that were settled in the 2022/23 financial year and the claimant damages paid were in excess of £100,000, which single case saw the biggest claimant's legal costs as a multiple of the claimant's damages? For that case please state the amount of damages paid, the claimant's costs and the name of the legal firm in question and the NHSLA 'S legal costs associated with the case.

5. In relation to only those cases that were settled in the 2022/23 financial year and the claimant damages paid were in excess of £1,000, which single case saw the biggest claimant's legal costs as a multiple of the claimant's damages? For that case please state the amount of damages paid, the claimant's costs and the name of the legal firm in question and the NHSLA 'S legal costs associated with the case.

Note: In relation to Q.4 and Q.5 I am after the biggest multiple. So costs of £600,000 on a case settled for £150,000 damages would be x4, and bigger than costs of £2m in a case settled for £1m which would be x2. Also note I have dropped a request for the nature of the injury so as not to fall within the scope of S.40.

Our Response

NB: We have recently changed the way we report on our FOIs to align better with our published documents. Streamlining our reporting on FOIs with our annual published reports may mean a variation in snapshot dates. This means this data may not align with previous similar requests and it may not be possible for you to compare this information with a previous request. For further information, please refer to <https://resolution.nhs.uk/resources/understanding-nhs-resolution-data>.

We wish to draw your attention to some significant differences between the [previous response](#) that you received and the attached report.

Table 1 in the previous response to [FOI 5519 Top-10-legal-firms-with-most-claimant-costs.doc.pdf \(resolution.nhs.uk\)](#) will have included the claims that were not successful and where the claimant firm did **not** receive a costs payment. However, we have removed those claims from the attached table 1 as it provides a clearer picture of the top 10 legal firms that received claimant costs.

Please find attached the following tables:

Q1 - Table 1 shows: Top ten legal firms that received the most money in relation to claimant costs for the clinical negligence scheme (CNST) for claims closed (or PPOs settled) in financial year 2022/23 (including damages paid up to the end of the settlement year in the case of PPOs and up to the end of the closure year in non-PPO cases).

This table shows the top 10 legal firms that **received** claimant legal costs whether or not the claim was successful.

Q2 - Table 2 shows: The amount paid in legal costs (NHS Legal Costs and Claimant Legal Costs) for CNST claims closed (or PPOs settled) in 2021/22 – 2022/23.

This table shows the legal costs for all CNST claims closed (or settled as a PPO) during this period. It will therefore include some claims that did **not** have any claimant costs.

Q3 – Table 3 shows: The claimant solicitor firm with the highest claimant costs paid for a CNST claim closed in financial year 2022/23 (excludes claims settled on a periodical payment order basis)

Q4 – Table 4 shows: The largest multiple of claimant costs to damages for CNST claim closed in financial year 2022/23 (excludes the costs paid to date for any claims settled on a periodical payment order basis) where damages payments >£100,000

Q5 – Table 5 shows: The largest multiple of claimant costs to damages paid for CNST claim closed in financial year 2022/23 (excludes claims settled on a periodical payment order basis) where damages payments >£1000.

Q3 – Q5 - We have provided you with a data range as we believe that disclosure of the information requested is exempt under Section 40(2) by virtue of section 40(3A)(a) of the FOI Act, where disclosure to a member of the public would contravene one or more of the data protection principles. The data protection principles are set out in Article 5 of the General Data Protection Regulation.

Please note the data provided is along the same lines as the data provided in response to: [FOI 5519 Top-10-legal-firms-with-most-claimant-costs.doc.pdf \(resolution.nhs.uk\)](#) . It is our view that to provide you with the precise information for individual claims or a description of the injury suffered for individual claims would be a breach of the Data Protection requirements.

The likelihood exists that individuals who are the subject of this information may be identified either from this information alone, or in combination with other available information. In addition to this, as this information is considered to be sensitive personal data (the data subjects' medical condition); NHS Resolution believes it has a greater responsibility to protect those individuals' identities, as disclosure could potentially cause damage and/or distress to those involved.

Please also note that the data shows variation in damages and costs paid. This is a reflection of the nature of individual claims received by NHS Resolution, which can vary significantly. As such, year on year fluctuations cannot necessarily be interpreted as trends.

PPOs -

The information disclosed includes damages and costs paid up to the end of the settlement year (in Periodical payment order (PPO) cases) and up to the end of the closure year in non-PPO cases.

PPOs are an agreement between the parties, to pay an initial lump sum and regular future payments (PPO damages) related to the injured party's ongoing needs, usually care for life i.e., a percentage of the full value of the claim is paid at the point of settlement (lump sum damages) with the balance paid at regular intervals over subsequent years. The information disclosed includes lump sum damages, costs and any PPO damages paid up to the end of the year of settlement. It does not include PPO damages, which have been committed to but due to be paid after the settlement year.

Please refer to [Understanding NHS Resolution data](#) guidance for further details on how our Claims database is categorised.

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/>

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NB: Number of claims fewer than 5 (and any associated values, within the same row) are masked with a "#" (in accordance with Data Protection guidelines). Accordingly, some total values may also be approximated to prevent masked values to be deduced through reverse calculation.

Table 1: Top ten legal firms that received the most money in relation to claimant costs for the clinical negligence scheme (CNST) for claims closed (or PPOs settled) in financial year 2022/23 (including damages paid up to the end of the settlement year in the case of PPOs and up to the end of the closure year in non-PPO cases).

Table 2: The amount paid in legal costs (NHS Legal Costs and Claimant Legal Costs) for CNST claims closed (or PPOs settled) in 2021/22 – 2022/23.

Table 3: The claimant solicitor firm with the highest claimant costs paid for a CNST claim closed in financial year 2022/23 (excludes claims settled on a periodical payment order basis)

Table 4: The largest multiple of claimant costs to damages for CNST claim closed in financial year 2022/23 (excludes the costs paid to date for any claims settled on a periodical payment order basis) where damages payments >£100,000.

Table 5: The largest multiple of claimant costs to damages paid for CNST claim closed in financial year 2022/23 (excludes claims settled on a periodical payment order basis) where damages payments >£1000.

Table 1: Top ten legal firms that received the most money in relation to claimant costs for the clinical negligence scheme (CNS) for claims closed (or PPOs settled) in financial year 2022/23 (including damages paid up to the end of the settlement year in the case of PPOs and up to the end of the closure year in non-PPO cases).

FOI View scheme reportingYear Claimant Costs Paid	Closed Settled CNS 2022/23 (Multiple Items)
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Claimant Solicitor Firm ---Claim Outcome	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Costs Paid
Irwin Mitchell				
Successful	572	232,590,214	16,430,240	55,228,522
Unsuccessful	#	#	#	#
Fletchers				
Successful	593	31,482,312	4,647,373	21,178,211
Unsuccessful	#	#	#	#
Fieldfisher				
Successful	64	136,603,440	4,500,814	16,075,597
Slater & Gordon				
Successful	187	45,511,075	4,063,085	15,208,879
Unsuccessful	#	#	#	#
Leigh Day				
Successful	80	44,362,677	2,548,975	9,704,166
Stewarts Law				
Successful	30	44,742,176	2,477,151	9,520,503
Enable Law				
Successful	54	42,292,839	2,416,566	8,669,031
Shoosmiths				
Successful	99	37,374,537	2,257,908	8,559,126
Unsuccessful	#	#	#	#
Thompsons				
Successful	134	13,975,969	2,419,292	8,465,716
JMW				
Successful	72	37,437,843	2,192,753	6,758,766
Unsuccessful	#	#	#	#
Grand Total	1,895	666,373,081	44,360,463	159,539,428

Table 2: The amount paid in legal costs (NHS Legal Costs and Claimant Legal Costs) for CNST claims closed (or PPOs settled) in 2021/22 – 2022/23.

FOI View scheme Claim_Outcome	Closed Settled CNST (All)
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Year of Closure (Settlement Year for PPOs)	No. of Claims	NHS Legal Costs Paid	Claimant Legal Costs Paid
2021/22	11,586	148,698,664	464,776,130
2022/23	11,167	142,439,407	439,510,798
Grand Total	22,753	291,138,071	904,286,928

Table 3: The claimant solicitor firm with the highest claimant costs paid for a CNST claim closed in financial year 2022/23 (excludes claims settled on a periodical payment order basis)

Year of Closure (Settlement Year for PPOs) ---Claimant Solicitor	Damages Paid	NHS Legal Costs Paid	Claimant Costs Paid	Went to Trial
2022/23				
Atherton Godfrey	1,000,000-1,250,000	300,000-400,000	1,500,000-2,000,000	No

Table 4: The largest multiple of claimant costs to damages for CNST claim closed in financial year 2022/23 (excludes the costs paid to date for any claims settled on a periodical payment order basis) where damages payments >£100,000.

Year of Closure (Settlement Year for PPOs) ---Claimant Solicitor	Damages Paid	NHS Legal Costs Paid	Claimant Costs Paid	Went To Trail
2022/23				
Shoosmiths	100,000-150,000	50,000-100,000	300,000-400,000	No

Table 5: The largest multiple of claimant costs to damages paid for CNST claim closed in financial year 2022/23 (excludes claims settled on a periodical payment order basis) where damages payments >£1000.

FOI View	Closed Settled
scheme	CNST
Is_PPO	No
reportingYear	2022/23
Damages_Flag_1K	Damages paid above 1000

Year of Closure (Settlement Year for PPOs) ---Claimant Solicitor	Damages Paid	NHS Legal Costs Paid	Claimant Costs Paid	Went To Trail
2022/23				
Lime Personal Injury	4000-5000	50,000-55,000	200,000-220,000	No