NHS Resolution

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October 2023
FOI_6200

The following information was requested on 27 September 2023:

1. The number of clinical claims closed/ settled by NHSR where the claimant was unrepresented (i.e., did not have legal representation), broken down by damages value band.

2. For those claims identified in question 1, the average amount of compensation (including, if possible, estimated PPO payments) which was awarded, broken down by damages value band

3. The number of clinical claims closed/ settled by NHSR where the claimant was represented (i.e., had legal representation), broken down by damages value band

4. For those claims identified in question 3, the average amount of compensation (including, if possible, estimated PPO payments) which was awarded, broken down by damages value band

Can you please provide this data for clinical claims which were closed/ settled in 2022/23, 2021/22, 2020/21, 2019/20 and 2018/19. Please only include claims which resulted in an award of damages.

Our Response

Please find attached the requested information.

Please note: 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.

Claims notified/received in any given year will often relate to incidents that have occurred many years prior. Due to the nature of negligence claims and the level of investigation needed to bring them to a resolution, claims received and notified in a specific year may take years to settle and close. They are not guaranteed to be settled and closed in the same year. As such, there will be a time gap between incident and claim closure.

Due to the way in which the data is extracted, it is also possible that the same claim may appear more than once in a claims volume dataset, across different year groups e.g., where the case has been closed (as unsuccessful), challenged, reopened and closed again at conclusion. This means information about volume of claims is most consistent with the data provided in each of our annual reports and accounts for the requested financial years. However, for average damages each claim reflects the data as at the end of the most recent financial year (31 March 2023). This ensures the average damages data is calculated using each claim only once, based on the most recent annual data set.

Table 1 shows: - Number of Clinical Claims Closed (or settled with a PPO) between financial years 2018/19 - 2022/23 where the claimant is **unrepresented** with a damages payment. Broken down by damages tranches.

Table 2 shows: - Average amount of compensation for Clinical Claims Closed (or settled with a PPO) between financial years 2018/19 - 2022/23 where the claimant is **unrepresented** with a damages payment.

Table 3 shows: - Number of Clinical Claims Closed (or Settled as a PPO) between financial years 2018/19 - 2022/23 where the claimant is **represented** with a damages payment. Broken down by damages tranches.

Table 4 shows: - Average amount of compensation for Clinical Claims Closed (or settled as a PPO) between financial years 2018/19 - 2022/23 where the claimant is **represented** with a damages payment.

Claims are included in the 'unrepresented' data set if the claimant was unrepresented in the year of closure (or settlement as PPO).

PPOs -

For both claims involving a periodic payment order (PPO) and those that do not, the information disclosed about average damages includes damages paid up to 31 March 2023.

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 and any PPO damages paid up to the end of the most recent financial year. It does not include PPO damages, which have been committed to, but due to be paid after 31 March 2023.

Low Figures
Please note we have supressed low figures as we believe that disclosure of information with this level of granularity 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. We take the view that it would not be fair or lawful (given the sensitive and confidential nature of the information held) to disclose such information, and any disclosure would therefore contravene the first data protection principle.

In some instances, the low numbers of claims (fewer than 5) in each category, 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. Where we are in the territory of such small numbers in the attached, we have used a '#' symbol in the relevant field.

Further to our obligations to provide advice and assistance, you may find it helpful to review the work of the Getting It Right First Time team with whom NHS Resolution has been working with to undertake in-depth analysis of our claims data. They have produced a number of reports from analysing our claims data, which has been shared following approval of the confidentiality advisory group to the use of confidential patient information for this purpose.

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/

Freedom of Information Request# 6200
Data correct as at the end of every financial year for Tables 1 and 3
Data correct as at the end of the most recent financial year for Tables 2 and 4

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T A B L E O F C O N T E N T S

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.

Freedom of Information Request# 6200
Data correct as at The end of every financial year

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Table 1: Number of Successful Clinical Claims Closed between financial years 2018/19 and 2022/23 where the claimant is unrepresented.

FOI View	Closed Settled
Claim_Outcome	Successful
LIP Flag	Pursued by litigant in person

Latest Damages Tranche	No. of Claims
£2,000,001-£4,249,999	#
£500,001-£1,000,000	#
£250,001-£500,000	#
£100,001-£250,000	10
£50,001-£100,000	33
£25,001-£50,000	59
£1,501-£25,000	597
£1-£1,500	214

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Data correct as at the end of the most recent financial year

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Table 2: Average amount of compensation of Successful Clinical Claims Closed between financial years 2018/19 and 2022/23 where the claimant is unrepresented.

FOI View	Closed Settled
Claim_Outcome	Successful
LIP Flag	Pursued by litigant in person

Latest Damages Tranche	Average of Damages
£500,001-£1,000,000	#
£250,001-£500,000	#
£100,001-£250,000	143,771
£50,001-£100,000	73,211
£25,001-£50,000	35,984
£1,501-£25,000	8,512
£1-£1,500	797

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Table 3: Number of Successful Clinical Claims Closed/Settled as a PPO between financial years 2018/19 and 2022/23 where the claimant is represented.

FOI View	Closed Settled
Claim_Outcome	Successful
LIP Flag	Not pursued by litigant in person

Latest Damages Tranche	No. of Claims
£4,250,000+	647
£2,000,001-£4,249,999	285
£1,000,001-£2,000,000	476
£500,001-£1,000,000	883
£250,001-£500,000	1,473
£100,001-£250,000	3,121
£50,001-£100,000	4,099
£25,001-£50,000	5,710
£1,501-£25,000	18,016
£1-£1,500	1,112

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Data correct as at the end of the most recent financial year

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Table 4: Average amount of compensation of Successful Clinical Claims Closed/Settled as a PPO between financial years 2018/19 and 2022/23 where the claimant is represented.

Claim_Outcome	Successful
Clinical	Clinical
LIP Flag	Not pursued by litigant in person

Latest Damages Tranche	Average of Damages Paid
£4,250,000+	5,134,034
£2,000,001-£4,249,999	2,387,384
£1,000,001-£2,000,000	1,350,157
£500,001-£1,000,000	702,731
£250,001-£500,000	358,326
£100,001-£250,000	160,333
£50,001-£100,000	72,649
£25,001-£50,000	37,088
£1,501-£25,000	11,333
£1-£1,500	1,146