NHS Resolution

8th Floor,
10 South Colonnade
Canary Wharf
London
E14 4PU
Telephone: 020 7811 2700

October 2023
FOI_6208

The following information was requested on 28 September 2023:

*1. In relation to the 22/23 financial year please state how many claims were paid out in that year and what was the total value of those claims paid out in that year where either the first or second recorded `cause' logged for the claim was `**inadequate nursing care'**? Please could the data be provided in a similar format and on the same basis as a previous FoI response [Ref: FoI_5181].*

[The most recent previous FOI request is: FOI_5577_Inadequate-Nursing-Care.pdf (resolution.nhs.uk))

Note: I require the data relating to the number of payouts and the value of the payouts made in the year, regardless of when the claim was actually lodged.

2. In relation to the claims paid out under Question 1 please provide me with a breakdown of the numbers that were logged under each type of injury claim?

3. In relation to the claims paid out in Question 1 which 5 Trusts had the highest value of claim payments made against them. Please name the Trust, the total value of these paid claims that were paid out the year and the number paid out by the Trust in that year.

Our Response

Please find attached the requested information.

Table 1 shows: - Number and Cost of Clinical Claims Closed in the financial year 2022/23 with damages paid or settled with a periodical payment order, where the Primary Cause or Secondary Cause is '**Inadequate Nursing Care'**. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Table 2 shows: - Number and Cost of Clinical Claims Closed in the financial year 2022/23 with a damages payment or settled with a periodical payment order, where the Primary Cause or Secondary Cause is '**Inadequate Nursing Care'** broken down by Injury. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Tables 3 shows: - Top 5 Trusts with Claims in relation to **'Inadequate Nursing Care'**, Closed in the financial year 2022/23 with a damages payment or settled with a periodical payment order. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

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.

Low Numbers

Please note we have supressed low figures and we are unable to provide you with the names of the Trusts with fewer than 5 claims, 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 Freedom of Information Act 2000, 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. You should still be able to see aggregate/total details for higher level fields containing this data.

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/

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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.

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Table 1: Number and Cost of Clinical Claims Closed with damages paid, or settled with a periodical payment order, in the financial year 2022/23 where the Primary Cause or Secondary Cause is 'Inadequate Nursing Care'.

FOI View	Closed Settled
Claim_Outcome	Successful

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2022/23	521	30,341,438	3,917,362	20,100,763	54,359,563
Grand Total	**521**	**30,341,438**	**3,917,362**	**20,100,763**	**54,359,563**

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Table 2: Number and Cost of Clinical Claims Closed with damages paid, or settled with a periodical payment order, in the financial year 2022/23 where the Primary Cause or Secondary Cause is 'Inadequate Nursing Care' broken down by Injury.

FOI View	Closed Settled
Claim_Outcome	Successful

Primary Injury	No. of Claims	Damages Paid
Pressure Sores	164	5,272,919
Fracture	127	3,575,555
Fatality	66	3,062,272
Unnecessary Pain	36	640,181
Bruising/ Extravasation	16	355,778
Adtnl/unnecessary Operation(s)	10	260,521
Brain Damage	9	5,420,569
Psychiatric/Psychological Dmge	8	432,701
Tissue Damage	8	213,568
Scarring	6	59,843
Burn(s)	6	304,941
Bladder Damage	5	52,400
Nerve Damage	5	124,457
Cardiac Arrest	#	#
Hospital Acquired Infection	#	#
Amputation - Lower	#	#
Poor Outcome - Fractures Etc.	#	#
Sepsis	#	#
Stroke	#	#
Multiple Injuries	#	#
Bowel Damage/ Dysfunction	#	#
Spinal Damage	#	#
Foot Drop	#	#
Other Infection	#	#
Stillborn	#	#
Infection (bacterial)	#	#
Anaphylact Shock/Allergic Shock/allergy	#	#
Other	#	#
Amputation - Upper	#	#
Cosmetic Disfigurement	#	#
Not Specified	#	#
Joint Damage	#	#
Thrombosis/Embolism	#	#
Advanced Stage Cancer	#	#
Developmental Delay	#	#
Dental Damage	#	#
Oedema	#	#
Reduced Life Expectancy	#	#
Tendon Damage	#	#
Renal Damage/ Failure	#	#
Compartment Syndrome	#	#
Scalp Damage	#	#
Cerebral Palsy	#	#
Infertility	#	#
Grand Total	**521**	**30,341,438**

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Table 3: Top 5 Trusts (by damages paid) for Claims in relation to 'Inadequate Nursing Care', Closed with damages paid, or settled with a periodical payment order, in the financial year 2022/23.

FOI View	Closed Settled
Claim_Outcome	Successful

Trust Name	No. of Claims	Damages Paid
Bolton NHS Foundation Trust	7	6,234,801
Royal Wolverhampton NHS Trust (The)	8	3,833,145
#	#	#
#	#	#
#	#	#
Grand Total	**24**	**13,100,416**