



Resolution

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October 2023
FOI_6215

The following information was requested on 3 October 2023:

Follow up to: - [FOI 6106 Vaginal-Mesh-claims-against-Torbay-and-South-Devon-NHS-Foundation-Trust.pdf \(resolution.nhs.uk\)](#)

I noted the suppressed low figures – is there any chance we can resubmit to find out:

- *The total number of successful clinical negligence claims related to surgical TVT/TAT/TOT mesh against Torbay and South Devon NHS Foundation trust since 2006*
- *The total sum paid out in successful and settled clinical negligence claims related to surgical TVT/TAT/TOT mesh against Torbay and South Devon NHS Foundation trust since 2006*

So not the data provided by year but a total figure?

Our Response

Please note that we will not hold details of **all** allegations and complaints concerning vaginal mesh claims. We would only hold information on the vaginal mesh claims and incidents notified to us. Therefore, it may be worth you contacting the Trust directly to obtain the number of complaints or allegations they have received concerning vaginal mesh procedures.

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. Surgical TVT/TAT mesh claims are not a standard code in our system, and we are reliant on additional data capture to identify those cases where Vaginal Mesh Implants is involved. We can apply this separate coding at any time during a claim lifecycle. Therefore, we endeavour to provide the information as it is stored in our Claims Management System at the time of the request, but this may alter in subsequent requests of the same nature.

Our claims database was designed primarily as a claims management tool rather than for research purposes and is a dynamic system which means reporting is not always straightforward.

Please note claims notified and open are not guaranteed to be settled in the same year and can take many years to be concluded. Claims notified in any given year will often relate to incidents that have occurred many years prior. Claims closed and settled in one year will often relate to claims notified in different years. Many of the claims notified will have been repudiated and settled without damages paid.

We have carried out a search for the number and cost of clinical claims closed for Torbay and South Devon NHS Foundation Trust between financial years '2006/07' and '2022/23' with a **damages** payment relating to 'Vaginal Mesh'. This includes all claims coded to Vaginal Mesh, not just TVT/TAT. However, without a manual interrogation of individual claim files which would likely exceed the time limit afforded under the FOI Act, we cannot guarantee that a small number of claims have not been missed.

We can confirm that there are **fewer than 5 claims** with a damages payment. We are unable to provide the cost associated with the claims as the number of claims involved is so small. Please refer to the low numbers refusal notice below for further explanation.

Low Numbers

We have suppressed 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)(i) of the 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 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
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