



Resolution

8th Floor,
10 South Colonnade
Canary Wharf
London
E14 4PU

Telephone: 020 7811 2700

November 2023
FOI_6250

The following information was requested on 25 October 2023:

*In line with the freedom of information act 2000 please provide the total amount in GBP paid out by the NHS for **clinical negligence claims** for each of the following years: please include all legal fees within this total expenditure.*

2015-16
2016-17
2017-18
2018-19
2019-20
2020-21
2021-22
2022-23

Please also list the three individual NHS trusts for each year listed above -that have the highest amount paid with respect to clinical negligence (and include each of these figures in your answers next to the NHS Trust responsible for that figure). For example

2022-23 total £2.7 billion. 1) Frimley NHS Trust £35 million, Southampton NHS £28 million, Epsom £19 million etc but do this for each year listed above.

I understand this information is held by NHS Resolution, as many of the Trusts choose to allow NHS England to handle and settle their clinical negligence cases. In addition, your website clarifies that the information I am requesting is held by yourselves. I have seen no need to provide identification alongside my request (having read your guidance notes) because I am not asking for any specific personalised data relating to any individual.

Our Response

Please find attached the requested information. Please note we only hold information for England.

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 data is extracted, it is also possible that the same claim may appear more than once in a dataset, across different year groups e.g. where the case has been closed (as unsuccessful), challenged, reopened and closed again at conclusion.

The individual nature of claims received by NHS Resolution means they can vary significantly in value and any such fluctuations cannot be interpreted as trends.

Table 1 shows: - Number & Cost of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2015/16 - 2022/23. The data includes the damages paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Table 2 shows: - Analysis of the Top 3 Member Trusts by total costs of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2015/16 - 2022/23. The data includes the damages 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

We have suppressed low numbers as we believe that disclosure of information with this level of granularity is exempt under Section 40(2) by virtue of section 40(3)(a)(i) 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. You should still be able to see aggregate/total details for higher level fields containing this data.

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/>

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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: Number & Cost of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2015/16 - 2022/23. The data includes the damages paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Table 2: Analysis of the Top 3 Member Trusts by total costs of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2015/16 - 2022/23. The data includes the damages paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Table 1: Number & Cost of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2015/16 - 2022/23. The data includes the damages paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

FOI View scheme Clinical	Closed Settled (All) Clinical
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Year of Closure (Settlement Year for PPOs) --- Claim Outcome	No Of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid
2015/16				
Successful	5,948	665,438,830	72,809,332	319,556,899
Unsuccessful	4,983	#	15,771,849	762,598
2016/17				
Successful	7,116	778,947,729	92,010,812	398,046,865
Unsuccessful	5,252	#	20,889,086	714,256
2017/18				
Successful	7,048	1,079,158,206	101,383,796	421,739,062
Unsuccessful	5,165	#	20,384,092	581,324
2018/19				
Successful	7,011	1,313,044,823	106,923,157	406,751,484
Unsuccessful	4,782	#	22,105,579	227,544
2019/20				
Successful	7,644	1,204,871,761	108,676,682	407,792,628
Unsuccessful	4,470	#	21,025,628	460,225
2020/21				
Successful	6,671	1,190,439,338	104,432,981	377,540,139
Unsuccessful	5,075	#	21,823,225	1,417,530
2021/22				
Successful	7,818	1,494,136,579	127,827,371	485,120,537
Unsuccessful	6,514	#	29,035,964	1,749,036
2022/23				
Successful	7,601	1,557,018,536	127,061,293	480,149,767
Unsuccessful	6,860	#	30,347,655	682,046
Grand Total	99,958	9,282,838,748	1,022,508,501	3,303,291,940

Table 2: Analysis of the Top 3 Member Trusts by total costs of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2015/16 - 2022/23. The data includes the damages paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Year of Closure (Settlement Year for PPOs) --- Claim Outcome --- Trust	No Of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid
2015/16				
University Hospitals Birmingham NHS Foundation Trust				
Successful	202	13,419,115	2,137,542	9,610,701
Unsuccessful	150	0	358,684	#
Manchester University NHS Foundation Trust				
Successful	113	15,641,519	1,624,650	6,354,611
Unsuccessful	100	0	381,651	0
Northern Care Alliance NHS Foundation Trust				
Successful	92	16,352,681	1,330,484	5,680,598
Unsuccessful	93	0	324,284	56,267
2016/17				
University Hospitals Birmingham NHS Foundation Trust				
Successful	178	18,631,059	2,237,136	8,684,309
Unsuccessful	147	0	647,480	17,137
Manchester University NHS Foundation Trust				
Successful	144	11,312,290	1,620,424	7,536,262
Unsuccessful	131	0	901,185	0
Mid and South Essex NHS Foundation Trust				
Successful	128	11,717,027	1,593,915	7,818,905
Unsuccessful	87	#	306,677	0
2017/18				
Manchester University NHS Foundation Trust				
Successful	181	30,912,632	2,476,209	9,518,568
Unsuccessful	116	0	470,503	#
Barts Health NHS Trust				
Successful	96	23,201,201	1,879,069	8,891,507
Unsuccessful	44	0	123,100	0
The Leeds Teaching Hospitals NHS Trust				
Successful	94	23,928,994	1,388,164	6,170,876
Unsuccessful	83	0	232,908	14,000
2018/19				
Barts Health NHS Trust				
Successful	110	50,287,713	2,055,219	8,559,165
Unsuccessful	56	0	173,057	0
Nottingham University Hospitals NHS Trust				
Successful	90	35,921,401	2,652,195	5,422,972
Unsuccessful	31	0	164,622	#
University Hospitals Sussex NHS Foundation Trust				
Successful	106	27,669,343	1,978,271	9,354,185
Unsuccessful	70	0	300,960	#
2019/20				
Mid and South Essex NHS Foundation Trust				
Successful	164	31,246,411	2,626,775	8,620,278
Unsuccessful	71	0	640,897	47,920
The Leeds Teaching Hospitals NHS Trust				
Successful	105	28,601,711	1,979,568	7,454,438
Unsuccessful	71	0	435,724	#
University Hospitals Sussex NHS Foundation Trust				
Successful	136	24,055,359	2,162,530	7,778,315
Unsuccessful	52	0	222,210	0
2020/21				
Mid and South Essex NHS Foundation Trust				
Successful	179	47,654,786	2,804,795	10,057,720
Unsuccessful	64	0	625,892	11,750
Manchester University NHS Foundation Trust				
Successful	148	32,740,232	2,531,630	7,518,808
Unsuccessful	173	0	700,325	0
Nottingham University Hospitals NHS Trust				
Successful	117	25,204,920	2,508,009	7,280,110
Unsuccessful	38	0	208,042	0
2021/22				
University Hospitals Sussex NHS Foundation Trust				
Successful	137	54,824,839	3,700,088	12,433,904
Unsuccessful	48	0	430,262	0
Barts Health NHS Trust				
Successful	170	45,618,481	3,352,546	13,451,753
Unsuccessful	42	0	165,573	0
University Hospitals Birmingham NHS Foundation Trust				
Successful	151	39,260,414	2,949,879	10,251,486
Unsuccessful	99	0	341,446	18,628
2022/23				
Mid and South Essex NHS Foundation Trust				
Successful	126	46,265,957	3,049,265	11,846,610
Unsuccessful	80	0	324,391	0
University Hospitals Sussex NHS Foundation Trust				
Successful	92	46,277,308	2,543,812	8,668,490
Unsuccessful	34	0	191,886	0
East Kent Hospitals University NHS Foundation Trust				
Successful	82	46,291,161	1,718,291	7,312,289
Unsuccessful	70	0	365,696	0