



Resolution

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November 2023
FOI_6267

The following information was requested on 6 November 2023:

- 1. How much has the NHS paid in compensation to NHS patients for operations and treatments in non-NHS hospitals and treatment centre in 2022/23 and what was the most common injury category for payment in each of those years?*
- 2. Can you provide a table of all the injury codes for the cohort of payouts in relation to Question 1 and the number of claims against each code?*

Note: The question refers to when the payout was made regardless of when the claim was lodged or when the incident happened. The answer should be provided on the same basis as was done for a previous Fol response from you [Ref: FOI_5209]

[Please note that the previous similar request is - [FOI 5617 Treatments-in-non-NHS-hospitals.pdf \(resolution.nhs.uk\)](#)]

Our Response

Please find attached the details of claims recorded against independent sector healthcare providers treating NHS patients who are members of our indemnity scheme. The numbers are likely to include a few cases where treatment was in the community, as opposed to on the premises of private providers.

Please note that we do not indemnify all independent sector providers and therefore can only answer the questions raised for those organisations that are members of our schemes. Therefore, the volume of claims notified and settled will fluctuate, dependant on the number of independent sector members we indemnify at any point.

Please note there are a small number of claims not included where a Trust has sub-contracted work to a private hospital, and it is a term of the arrangement that the Trust agrees to accept liability (for whatever reason) and we log such cases against the Trust. It is not possible to identify these from our Claims Management System as we do not have a code for them.

Please note claims notified/received and open are not guaranteed to be settled and/or closed in the same year and can take many years to be concluded. Claims notified/received in any given year will often relate to incidents that have occurred many years prior. Due to the nature of clinical 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.

Table 1 shows: - Number and damages for Claims Closed in financial year 2022/23 for NHS patients referred to Independent Providers. The data includes the damages paid up until the end of each relevant financial year of closure.

Tables 2 shows: - Analysis of Primary Injury for Claims Closed in financial year 2022/23 for NHS patients referred to Independent Providers. The data includes the damages paid up until the end of each relevant financial year of closure.

Please note we have supplied the amount of compensation excluding any legal costs paid, in line with the previous FOI response [FOI 5617 Treatments-in-non-NHS-hospitals.pdf \(resolution.nhs.uk\)](#) .

Low Figures

Please note 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)(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. 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.

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.

Table 1: Number and Cost of Clinical Claims Closed in financial year 2022/23 with a damages payment for NHS patients referred to Independent Providers. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Table 2: Number and Cost of Clinical Claims Closed in financial year 2022/23 with a damages payment for NHS patients referred to Independent Providers, broken down by Primary Injury. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Table 1: Number and Cost of Clinical Claims Closed in financial year 2022/23 with a damages payment for NHS patients referred to Independent Providers. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

FOI View	Closed Settled
Clinical	Clinical
Claim_Outcome	Successful

Year of Closure	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2022/23	260	17,047,743	2,294,358	11,420,832	30,762,933
Grand Total	260	17,047,743	2,294,358	11,420,832	30,762,933

Table 2: Number and Cost of Clinical Claims Closed in financial year 2022/23 with a damages payment for NHS patients referred to Independent Providers, broken down by Primary Injury. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

FOI View	Closed Settled
Clinical	Clinical
Claim_Outcome	Successful

Year of Closure ----- Primary Injury	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2022/23	260	17,047,743	2,294,358	11,420,832	30,762,933
Adtnl/unnecessary Operation(s)	94	8,484,497	951,645	4,261,096	13,697,238
Unnecessary Pain	33	1,362,106	258,723	1,397,078	3,017,907
Tendon Damage	14	538,362	86,600	439,913	1,064,876
Fracture	8	418,119	41,932	280,205	740,256
Poor Outcome - Fractures Etc.	8	323,778	57,248	361,939	742,965
Nerve Damage	7	700,330	110,471	381,500	1,192,301
Other	7	130,349	22,858	139,049	292,256
Other Visual Problems	7	211,566	36,816	230,413	478,795
Pressure Sores	7	107,744	26,335	153,056	287,135
Infection (bacterial)	6	212,712	30,566	159,125	402,403
Bowel Damage/ Dysfunction	6	288,792	41,844	310,326	640,962
Spinal Damage	#	#	#	#	#
Burn(s)	#	#	#	#	#
Fatality	#	#	#	#	#
Thrombosis/Embolism	#	#	#	#	#
Psychiatric/Psychological Dmge	#	#	#	#	#
Joint Damage	#	#	#	#	#
Bladder Damage	#	#	#	#	#
Tissue Damage	#	#	#	#	#
Cancer	#	#	#	#	#
Rupture	#	#	#	#	#
Perforation	#	#	#	#	#
Amputation - Lower	#	#	#	#	#
Advanced Stage Cancer	#	#	#	#	#
Dislocation	#	#	#	#	#
Scarring	#	#	#	#	#
Bile Duct Damage	#	#	#	#	#
Dental Damage	#	#	#	#	#
Other Infection	#	#	#	#	#
Blindness	#	#	#	#	#
Anal Fissure	#	#	#	#	#
Bruising/ Extravasation	#	#	#	#	#
Respiratory Disorder/ Failure	#	#	#	#	#
Sepsis	#	#	#	#	#
Failed Sterilization	#	#	#	#	#
Renal Damage/ Failure	#	#	#	#	#
Oedema	#	#	#	#	#
Brain Damage	#	#	#	#	#
Arterial Damage	#	#	#	#	#
Not Specified	#	#	#	#	#
Developmental Delay	#	#	#	#	#
Cardiovascular Condition	#	#	#	#	#
Liver Damage	#	#	#	#	#
Grand Total	260	17,047,743	2,294,358	11,420,832	30,762,933