



Resolution

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December 2023
FOI_6273

The following information was requested on 13 November 2023:

How many claims have been settled in the last five financial years up to and including 2022/23 where one of the injuries is recorded as malnutrition? Please state how many were (i) settled with no damages and (ii) settled with damages paid?

For those where damages were paid, please state the (i) total of these damages, (ii) the defence costs paid and (iii) the claimants' costs paid?

NOTE: These questions relate to when the claim was paid or closed, not when the claim was lodged or when the incident took place.

Our Response

Please find attached the requested information. Please note we can only report where we have recorded malnutrition as one of the injuries.

Please note claims notified/received and open are not guaranteed to be settled 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 Cost of Claims Closed between financial years 2018/19 - 2022/23 with damages paid where one of the injuries is '**malnutrition**'.

Table 2 shows:- Number of Claims Closed between financial years 2018/19 - 2022/23 with **NIL** damages paid where one of the injuries is '**malnutrition**'.

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 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.

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 Claims Closed between financial years 2018/19 - 2022/23 with damages paid where one of the injuries is 'malnutrition'.](#)

[Table 2: Number of Claims Closed between financial years 2018/19 - 2022/23 with NIL damages paid where one of the injuries is 'malnutrition'.](#)

Table 1: Number and Cost of Claims Closed between financial years 2018/19 - 2022/23 with damages paid where one of the injuries is 'malnutrition'.

FOI View	Closed Settled
scheme	(All)
Claim_Outcome	Successful

Year of Closure	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2018/19	5	86,755	43,387	194,055	324,197
2019/20	8	74,500	39,705	137,580	251,785
2020/21	#	#	#	#	#
2021/22	#	#	#	#	#
2022/23	#	#	#	#	#
Grand Total	25	400,765	143,017	693,216	1,236,998

Table 2: Number of Claims Closed between financial years 2018/19 - 2022/23 with NIL damages paid where one of the injuries is 'malnutrition'.

FOI View	Closed Settled
scheme	(All)
Claim_Outcome	Unsuccessful

Year of Closure	No. of Claims
2018/19	#
2019/20	#
2020/21	6
2021/22	5
2022/23	9
Grand Total	24