



Resolution

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December 2023
FOI_6276

The following information was requested on 15 November 2023:

Please can you provide the information for the queries below, in relation Lancashire Teaching Hospitals NHS Foundation Trust as well as Blackpool Teaching Hospitals NHS Foundation Trust.

Please can the answers be separate per Trust.

1. Please could you provide me with the total number and the total value of claims paid out by the Trust during 2023 where 'surgical/foreign body left in situ' is one of the grounds for claiming, showing damages paid and costs paid.

2. Please also provide the individual amounts of compensation paid for the five biggest awards and please state what the foreign body was.

3. During 2023, how much compensation has been paid out in total by the Trust as a result of wrong site surgery? (i.e., operating on the right leg instead of the left etc).

4. During 2023, what was the largest single payment made for compensation as a result of wrong site surgery?

5. In 2023, what was the total number of claims paid out as a result of compensation for wrong site surgery? Also provide a list giving a brief explanation of each wrong site surgery claim. E.g., wrong eye, wrong knee, wrong kidney etc.

Please note that this question refers to claims paid out 2023 regardless of when the claim was lodged or when the incident took place.

Our Response

Thank you for your request for information.

We are able to provide claims data in respect of complete financial years. The information for the financial year 2023/24 is currently unavailable. This information will be available on request from July 2024.

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 Lancashire Teaching Hospitals NHS Foundation Trust and separately as well for Blackpool Teaching Hospitals NHS Foundation Trust for the financial year '2022/23' with a **damages** payment where the Primary Cause is 'Foreign body left in Situ' or 'Wrong Site Surgery'.

We can confirm that there are **fewer than 5 claims** with a damages payment for both Trusts respectively. We are unable to provide the costs associated with these claims as the number of claims involved is so small. Please refer to the low numbers refusal notice below for further explanation and the exemption applied under the FOI Act.

In order to be able to provide you with some meaningful information, we therefore widened the time period to cover the financial years 2013/14 – 2022/23 and we also included claims where any of the causes included 'Foreign body left in Situ' or 'Wrong Site Surgery' for the Member Trusts 'Lancashire Teaching Hospitals NHS Foundation Trust' and 'Blackpool Teaching Hospitals NHS Foundation Trust'.

Please find attached the following tables:

Table 1 shows: – Number and Cost of Clinical Claims Closed with a damages payment between the financial years 2013/14 and 2022/23 where one of the Cause is 'Foreign body left in Situ' or 'Wrong Site Surgery' for the Member Trusts 'Lancashire Teaching Hospitals NHS Foundation Trust' and 'Blackpool Teaching Hospitals NHS Foundation Trust'.

Please note that we are unable to break down the table into each individual financial year as this would require us to replace the low numbers (fewer than 5) with a # to prevent identification.

Table 2 shows: – The damages range for the highest Clinical Claim Closed with a damages payment between the financial years 2013/14 and 2022/23 where one of the Cause is 'Foreign body left in Situ' or 'Wrong Site Surgery' for the Member Trusts 'Lancashire Teaching Hospitals NHS Foundation Trust' and 'Blackpool Teaching Hospitals NHS Foundation Trust'.

Low Numbers

We have suppressed low figures and we are unable to provide the information requested at **Q2** and part of **Q5** (*provide a list giving a brief explanation of each wrong site surgery claim. E.g., wrong eye, wrong knee, wrong kidney etc*) of your request, 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 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 Clinical Claims Closed with a damages payment between the financial years 2013/14 and 2022/23 where one of the Cause is 'Foreign body left in Situ' or 'Wrong Site Surgery' for the Member Trusts 'Lancashire Teaching Hospitals NHS Foundation Trust' and 'Blackpool Teaching Hospitals NHS Foundation Trust'.

Table 2: The damages range for the highest Clinical Claim Closed with a damages payment between the financial years 2013/14 and 2022/23 where one of the Cause is 'Foreign body left in Situ' or 'Wrong Site Surgery' for the Member Trusts 'Lancashire Teaching Hospitals NHS Foundation Trust' and 'Blackpool Teaching Hospitals NHS Foundation Trust'.

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FOI View	Closed Settled
Claim_Outcome	Successful

Trust Name -- Concatenated Cause	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Lancashire Teaching Hospitals NHS Foundation Trust					
Foreign Body Left in Situ	13	248,500	49,740	304,084	602,325
Wrong Site Surgery	8	542,342	59,009	175,466	776,818
Blackpool Teaching Hospitals NHS Foundation Trust					
Foreign Body Left in Situ	15	167,879	28,138	269,387	465,404
Wrong Site Surgery	#	#	#	#	#

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FOI View	Closed Settled
Claim_Outcome	Successful

Trust name	
-- Concatenated Cause	Damages Paid
Blackpool Teaching Hospitals NHS Foundation Trust	
Foreign Body Left In Situ	30,000 - 40,000
Wrong Site Surgery	15,000 - 25,000
Lancashire Teaching Hospitals NHS Foundation Trust	
Foreign Body Left In Situ	100,000 - 200,000
Wrong Site Surgery	400,000 - 500,000