



Resolution

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FOI_6341

The following information was requested on 27 December 2023:

Can I please have the data on the last 5 financial years worth of "Data Protection Claims" handled under the LTPs scheme, specifically, number of claims per year & a breakdown of the costs (damages paid, defence costs paid, claimant costs paid and total costs.)

Our Response

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>.

Please find attached the requested information. 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.

Please note: The number of claims received does not mean that there were the same number of data breaches within the NHS.

A single data breach can affect a large number of individuals and result in multiple claimants (i.e. 124 claims received in these years does **not** equate to 124 data breach incidents).

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 nil damages payment), challenged, reopened and closed again at conclusion.

Please also note that the data shows a variation in the number of claims received & also in the numbers of cases closed per year, and costs attributed to those claims

during this period. This is a reflection of the nature of individual claims received and resolved by NHS Resolution, which can vary significantly. As such, these fluctuations cannot be interpreted as trends.

For an explanation of the different schemes referred to, please visit the following web page: [Non-clinical schemes - NHS Resolution](#)

Table 1 shows: - Number of LTPS Claims and Incidents received between financial years 2018/19 and 2022/23 where the Schedule is 'PL- Data Protection Act'.

Table 2 shows: - Number and Cost of LTPS Claims Closed between financial years 2018/19 and 2022/23 with a damages payment, where the Schedule is 'PL- Data Protection Act'. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Table 3 shows: - Number and Cost of LTPS Claims Closed between financial years 2018/19 and 2022/23 with **NIL** damages paid where the Schedule is 'PL - Data Protection Act'.

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)(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.

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 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 of Non Clinical Claims and Incidents received between financial years 2018/19 and 2022/23 where the Schedule is 'PL- Data Protection Act'](#)

[Table 2: Number and Cost of Non Clinical Claims Closed between financial years 2018/19 and 2022/23 with a damages payment, where the Schedule is 'PL- Data Protection Act'. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.](#)

[Table 3: Number and Cost of Non Clinical Claims Closed between financial years 2018/19 and 2022/23 with NIL damages paid where the Schedule is 'PL - Data Protection Act'.](#)

Table 1: Number of Non Clinical Claims and Incidents received between financial years 2018/19 and 2022/23 where the Schedule is 'PL-Data Protection Act'

FOI View	Notified
Year of Notification	No. of Claims
2018/19	
LTPS	44
2019/20	
LTPS	112
DH Liab	#
2020/21	
LTPS	249
DH Liab	#
2021/22	
LTPS	293
DH Liab	#
2022/23	
LTPS	351
Grand Total	1,054

Table 2: Number and Cost of Non Clinical Claims Closed between financial years 2018/19 and 2022/23 with a damages payment, where the Schedule is 'PL- Data Protection Act'. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

FOI View	Closed Settled
Claim_Outcome	Successful

Year of Closure	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2018/19					
LTPS	18	71,600	8,759	46,350	126,709
2019/20					
LTPS	50	448,451	120,589	676,601	1,245,641
2020/21					
LTPS	83	300,669	609,774	1,390,672	2,301,115
2021/22					
LTPS	124	494,728	153,127	768,751	1,416,606
DH Liab	#	#	#	#	#
2022/23					
LTPS	210	737,398	357,004	1,439,997	2,534,399

Table 3: Number and Cost of Non Clinical Claims Closed between financial years 2018/19 and 2022/23 with NIL damages paid where the Schedule is 'PL - Data Protection Act'.

FOI View	Closed Settled
Claim_Outcome	Unsuccessful

Year of Closure	No. of Claims	NHS Legal Costs Paid	Claimant Legal Costs Paid
2018/19			
LTPS	5	49,855	0
2019/20			
LTPS	24	69,535	0
2020/21			
LTPS	27	36,634	0
2021/22			
LTPS	70	86,301	#
2022/23			
LTPS	114	111,681	#
DH Liab	#	#	#