



Resolution

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February 2024
FOI_6346

The following information was requested on 2 January 2024:

Please accept this email as a formal request, pursuant to Section 10, Freedom of Information Act 2000, for the following information.

Could you please supply the following information for the applicable time periods [between 1st April to 31st March for each of the following years];

2013-14

2014-15

2015-16

2016-17

2017-18

Question 1:

How many claims for personal injury have been submitted by members of NHS staff within Trusts [include both substantive, bank, honorary, PFI, or agency personnel] wherein the injury/harm caused was as a result of any alleged attack/assault/violent act, perpetrated by a patient/visitor/patients relative, or other service user.

Question 2:

What was the total value of any claims made during each of the aforementioned periods and for the aforementioned reasons [as set out in Q1].

Questions 3:

What was the total value of any claims settled during each of the aforementioned periods and for the aforementioned reasons [as set out in Q1].

Question 4:

What was the total value of any claims outstanding during each of the aforementioned periods and for the aforementioned reasons [as set out in Q1].

Question 5:

How many claims for personal injury have been submitted by patients/visitors/patients relative, or other service user wherein the injury/harm caused was as a result of any alleged attack/assault/violent act, perpetrated by a member of NHS staff [include both substantive, bank, honorary, PFI or agency personnel].

Question 6:

What was the total value of any claims made during each of the aforementioned periods and for the aforementioned reasons [as set out in Q5].

Question 7:

What was the total value of any claims settled during each of the aforementioned periods and for the aforementioned reasons [as set out in Q5].

Question 8:

What was the total value of any claims outstanding during each of the aforementioned periods and for the aforementioned reasons [as set out in Q5].

Our Response

We note that this request is very similar to [FOI 5990 Assault-claims.pdf \(resolution.nhs.uk\)](#) but with the dates changed. We are responding to this latest request along similar lines to FOI_5990. Therefore, the caveats provided in FOI_5990, particularly around the perpetrator also apply in this response.

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 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.

Therefore, the tables that shows the number of claims **notified/received** during the financial years specified in your request will not correlate with the tables that show the number of claims **closed** in the same time period.

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.

The data shows variation in numbers of cases received, closed per year and costs attributed to those claims. 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.

Please **find attached** the following tables:

Table 1 shows: – Number of LTPS Claims and Incidents received/notified between financial years 2013/14 and 2017/18 which relates to personal injury claims where the Primary Cause is "Assault". Broken down by claim type.

LTPS Scheme

NHS Resolution manages a number of risk-pooling schemes (similar to insurance) for the NHS, one of which is the Liability to Third Parties Scheme (LTPS). This covers both employers' liability (**EL**) (i.e. in relation to duties of care owed to employees) and public liability (**PL**) (i.e. in relation to duties of care owed other patients, visitors and other members of the public). You can find out more about the LTPS scheme here: [Liabilities to Third Parties Scheme - NHS Resolution](#)

Table 2 shows: - Cost of LTPS Claims Closed between financial years 2013/14 and 2017/18 with **damages paid** which relates to personal injury claims where the Primary Cause is "Assault". Broken down by claim type. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Please see the above explanation in respect of the **LTPS** Scheme and the breakdown of liability.

Table 3 shows: - Cost of LTPS Claims Closed between financial years 2013/14 and 2017/18 with **NIL** damages paid which relates to personal injury claims where the Primary Cause is "Assault". Broken down by claim type.

Please see above in respect of the breakdown of the claim type.

Table 4 shows: - Number of CNST Claims and Incidents received/notified between financial years 2013/14 and 2017/18 which relates to personal injury claims filed by a patient/visitor/patients relative, or other service user, where the Primary Cause is "Assault, Etc By Hospital Staff" or "Injured By Another Patient".

For an explanation of the CNST scheme please refer to the following web page: [Clinical schemes - NHS Resolution](#)

Table 5 shows: - Cost of CNST Claims Closed between financial years 2013/14 and 2017/18 with damages paid which relate to personal injury claims filed by a patient/visitor/patients relative, or other service user, where the Primary Cause is "Assault, Etc By Hospital Staff" or "Injured By Another Patient". The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Table 6 shows: - Cost of CNST Claims Closed between financial years 2013/14 and 2017/18 with **NIL** damages paid which relate to personal injury claims filed by a patient/visitor/patients relative, or other service user, where the Primary Cause is "Assault, Etc. By Hospital Staff" or "Injured By Another Patient".

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. 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.

Capitalised values of open claims

In terms of your request for Q2, 4, 6 and 8:

Please note that the data supplied represents the majority of the **full** settled value as it relates to **closed** cases.

However, in respect of open claims, there will be reserves held against these claims. We consider the reserve value to be exempt under the Freedom of Information Act.

NHS Resolution considers that this information is exempt from disclosure under s.36 (2)(c) and s.43 (2) of Freedom of Information Act 2000 (FOIA).

In consideration of this request, NHS Resolution concludes that the disclosure of this information would prejudice the effective conduct of public affairs (s.36 (2) (c) and prejudice commercial interests (s.43 (2)). Disclosing precise values of liabilities accounted for, and the documentation related to this would be likely to encourage claims informed by that amount rather than conventional civil liability principles.

NHS Resolution has given due consideration to the public interest test when relying on the above listed exemptions, s.36(2)(c) and s.43(2) and concludes that the factors in favour of non-disclosure outweigh the factors in favour of disclosure under the public interest test.

NHS Resolution has considered all the relevant factors in favour of disclosure, including:

- The public interest in favour of disclosure inherent in FOIA.

- Transparency and accountability around the cost of claims.

NHS Resolution has weighed these against the factors in favour of maintaining the exemption, including:

- The strong public interest in the proper and effective discharge of NHS Resolution's statutory duties and responsibilities, which include exercising its functions in an efficient, effective and economical way.
- The public interests in the timely and cost-effective resolution of complaints and claims.
- The public interest in the costs of any claims not being compounded by 'anchoring' claims to reserved amounts.
- It is more accurate to provide the details of the money that has already left the public purse, which is what we have provided in the attached tables. The reserve amount is not guaranteed to be paid out.

In light of all of the factors, NHS Resolution concludes that the public interest favours non-disclosure of the total value of the open claims. We believe the public interest is met by the disclosure of the amount paid.

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/>

TABLE OF CONTENTS

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 LTPS Claims and Incidents received between the financial years 2013/14 and 2017/18 where the Primary Cause is 'Assault' broken down by liability type.

Table 2: Number and Cost of LTPS Claims Closed between the financial years 2013/14 and 2017/18 with a damages payment, where the Primary Cause is 'Assault'. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure broken down by liability type.

Table 3: Number and Cost of LTPS Claims Closed between the financial years 2013/14 and 2017/18 with NIL damages paid where the Primary Cause is 'Assault' broken down by liability type.

Table 4: Number of CNST Claims and Incidents received between the financial years 2013/14 and 2017/18 which relates to personal injury claims filed by a patient/visitor/patients relative, or other service user, where the Primary Cause is "Assault, Etc By Hospital Staff" or "Injured By Another Patient".

Table 5 Number and Cost of CNST Claims Closed between the financial years 2013/14 and 2017/18 with a damages payment, where the Primary Cause is "Assault, Etc By Hospital Staff" or "Injured By Another Patient". The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Table 6: Number and Cost of CNST Claims Closed between the financial years 2013/14 and 2017/18 with NIL damages paid where the Primary Cause is "Assault, Etc By Hospital Staff" or "Injured By Another Patient".

Table 1: Number of LTPS Claims and Incidents received between the financial years 2013/14 and 2017/18 where the Primary Cause is 'Assault' broken down by liability type.

FOI View	Notified
scheme	LTPS
Cause1L1	Assault

No. of Claims Year of Notification	Liability Type		
	EL	PI	PL
2013/14	402	#	62
2014/15	426	0	60
2015/16	359	0	57
2016/17	467	0	90
2017/18	460	0	61
Grand Total	2,114	#	330

Table 2: Number and Cost of LTPS Claims Closed between the financial years 2013/14 and 2017/18 with a damages payment, where the Primary Cause is 'Assault'. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure broken down by liability type.

FOI View	Closed Settled
scheme	LTPS
Claim_Outcome	Successful
Cause1L1	Assault

Year of Closure --Liability Type	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2013/14					
EL	223	4,883,823	800,626	3,573,191	9,257,640
PL	15	86,118	28,972	127,119	242,209
2014/15					
EL	212	3,445,257	565,348	2,646,436	6,657,041
PL	17	202,443	41,628	259,871	503,942
2015/16					
EL	195	3,562,278	658,303	2,962,388	7,182,968
PL	30	231,915	31,986	260,239	524,140
2016/17					
EL	161	4,893,129	592,555	2,522,188	8,007,872
PL	22	242,287	61,963	344,813	649,062
2017/18					
EL	141	2,836,148	671,276	2,473,186	5,980,609
PL	29	797,402	143,256	493,702	1,434,360

Table 3: Number and Cost of LTPS Claims Closed between the financial years 2013/14 and 2017/18 with NIL damages paid where the Primary Cause is 'Assault' broken down by liability type.

FOI View	Closed Settled
scheme	LTPS
Claim_Outcome	Unsuccessful
Cause1L1	Assault

Year of Closure --Liability Type	No. of Claims	NHS Legal Costs Paid	Claimant Legal Costs Paid
2013/14			
EL	265	100,108	16,774
PL	39	7,805	0
2014/15			
EL	299	86,977	14,117
PL	40	#	#
PI	#	#	#
2015/16			
EL	295	50,491	12,729
PL	51	11,949	#
2016/17			
EL	315	80,572	12,546
PL	45	8,518	#
2017/18			
EL	364	165,393	14,649
PL	64	19,826	#

Table 4: Number of CNST Claims and Incidents received between the financial years 2013/14 and 2017/18 which relates to personal injury claims filed by a patient/visitor/patients relative, or other service user, where the Primary Cause is "Assault, Etc By Hospital Staff" or "Injured By Another Patient".

FOI View scheme Cause1L1	Notified CNST (Multiple Items)
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Year of Notification	No. of Claims
2013/14	40
2014/15	25
2015/16	45
2016/17	19
2017/18	28
Grand Total	157

Table 5 Number and Cost of CNST Claims Closed between the financial years 2013/14 and 2017/18 with a damages payment, where the Primary Cause is "Assault, Etc By Hospital Staff" or "Injured By Another Patient". The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

FOI View	Closed Settled
scheme	CNST
Claim_Outcome	Successful
Cause1L1	(Multiple Items)

Year of Closure	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2013/14	17	2,923,200	141,130	420,566	3,484,896
2014/15	14	240,366	64,852	194,526	499,744
2015/16	21	482,223	70,291	467,934	1,020,448
2016/17	23	537,300	103,683	305,298	946,281
2017/18	11	717,000	67,598	504,443	1,289,041
Grand Total	86	4,900,089	447,554	1,892,767	7,240,410

Table 6: Number and Cost of CNST Claims Closed between the financial years 2013/14 and 2017/18 with NIL damages paid where the Primary Cause is "Assault, Etc By Hospital Staff" or "Injured By Another Patient".

FOI View scheme Claim_Outcome Cause1L1	Closed Settled CNST Unsuccessful (Multiple Items)
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	No. of Claims	NHS Legal Costs Paid	Claim ant Legal Costs Paid	Total Paid
Year of Closure (Settlement Year for PPOs)				
2013/14	18	23,361	0	23,361
2014/15	24	18,362	0	18,362
2015/16	17	23,790	0	23,790
2016/17	13	76,466	0	76,466
2017/18	8	28,412	0	28,412
Grand Total	80	170,392	0	170,392