



Resolution

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February 2024

FOI_6347

The following information was requested on 2 January 2024 and clarified on 5 January 2024:

[You requested the following information on 2 January 2024]

In line with the Freedom of information act please provide answers to the following questions:

1) in 2020- 2021 please list the number of successful claims that were awarded against the following NHS Trusts - that were a result of clinical negligence that resulted in either death or life changing injuries for persons under the age of 18. Please list the total expenditure for the value of these claims for each Trust for the same period- broken down into damages paid, NHS legal costs and claimant legal costs paid.

- Mid and South Essex NHS Foundation Trust*
- University Hospitals Sussex NHS FT*
- Barts Health NHS Trust*
- University Hospitals Birmingham NHS FT*
- East Kent Hospitals University NHS Foundation Trust*
- Manchester University NHS Foundation Trust*

2) In 2021- 2022 please list the number of successful claims that were awarded against the following NHS Trusts that were a result of clinical negligence that resulted in either death or life changing injuries for persons under the age of 18. Please list the total expenditure for the value of these claims for each Trust for the same period- broken down into damages paid, NHS legal costs and claimant legal costs paid.

- Mid and South Essex NHS Foundation Trust*
- University Hospitals Sussex NHS FT*
- Barts Health NHS Trust*
- University Hospitals Birmingham NHS FT*
- East Kent Hospitals University NHS Foundation Trust*
- Manchester University NHS Foundation Trust*

3) n 2022- 2023 please list the number of successful claims that were awarded against the following NHS Trusts that were a result of clinical negligence that resulted in either death or life changing injuries for persons under the age of 18. Please list the total expenditure for the value of these claims for each Trust for the same period- broken down into damages paid, NHS legal costs and claimant legal costs paid.

- Mid and South Essex NHS Foundation Trust*
- University Hospitals Sussex NHS FT*
- Barts Health NHS Trust*
- University Hospitals Birmingham NHS FT*
- East Kent Hospitals University NHS Foundation Trust*
- Manchester University NHS Foundation Trust*

[we asked for clarification on 2 January 2024]

Before we can respond, please, can you clarify the injuries you are interested in?

Please refer to our publication: [Guidance-note-Understanding-NHS-Resolution-data-updated](#) and a set of codes against which claims are logged: [CNST-Codes.xlsx \(live.com\)](#) (see the injuries tab in the spreadsheet).

We are able to provide data for injury: fatality, but we do not have a group for life changing injuries. Would it be possible for you to select the exact injury codes from the list linked above and confirm with us?

Your request will be put on hold until we receive the clarification requested above.

[You replied on 5 January 2024]

I am happy to clarify as follows:

Yes with regards to fatality please separate this into one part of the answer for people under 18.

For the second part of the injury any claim that has resulted in the claimant unable to lead a normal life as a result of their injuries requiring ongoing care (incapacitated). This can apply to any and all of the codes you have sent me.

Our Response

We do not have a code specifically called: *life changing injuries*.

As advised on 2 January 2024, we are only able to provide the information based on the learning codes available in our Claims Management System. Please refer to the learning Codes used in our Claims management database here: [CNST-Codes.xlsx \(live.com\)](#)

Please find attached the information we are able to provide. However, please note that it is based on the breakdown of injuries as recorded in our system and **not** based on whether or not it is *life changing injuries*.

We also note that there is subjectivity in terms of whether the injury is life changing.

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 [Understanding NHS Resolution data - NHS Resolution](#)

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 and close. They are not guaranteed to be settled and closed in the same year. As such, there will be a time gap between incident and claim closure.

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 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.

Table 1: Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2020/21 and 2022/23 with a damages payment where the patient is under the age of 18, broken down by specified Trust. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Table 2: Analysis of Primary Injuries for Clinical Claims Closed (or Settled with a periodical payment order) between financial years 2020/21 and 2022/23 with a damages payment where the patient is under the age of 18, broken down by specified Trust. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

PPOs

The information disclosed includes damages and costs paid up to the end of the settlement year (in Periodical payment order (PPO) cases) and up to the end of the closure year in non-PPO cases.

PPOs are an agreement between the parties, to pay an initial lump sum and regular future payments (PPO damages) related to the injured party's ongoing needs, usually care for life i.e., a percentage of the full value of the claim is paid at the point of settlement (lump sum damages) with the balance paid at regular intervals over subsequent years. The information disclosed includes lump sum damages, costs and any PPO damages paid up to the end of the year of settlement. It does not include PPO damages, which have been committed to but due to be paid after the settlement year.

Low figures

We have not provided the information for low figures involved 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.

Please refer to [Understanding NHS Resolution data](#) guidance for further details on how our Claims database is categorised.

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.

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FOI View	Closed Settled
Claim_Outcome	Successful

Year of Closure (Settlement Year for PPOs) -- Trust Name	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2020/21					
Manchester University NHS Foundation Trust	16	22,860,466	1,161,172	2,371,660	26,393,298
Mid and South Essex NHS Foundation Trust	15	31,746,538	901,912	2,329,750	34,978,200
Barts Health NHS Trust	6	5,361,664	198,411	727,447	6,287,523
University Hospitals Sussex NHS Foundation Trust	6	6,368,976	263,857	818,994	7,451,827
East Kent Hospitals University NHS Foundation Trust	#	#	#	#	#
University Hospitals Birmingham NHS Foundation Trust	#	#	#	#	#
2021/22					
Manchester University NHS Foundation Trust	17	6,540,412	629,742	1,825,895	8,996,048
University Hospitals Sussex NHS Foundation Trust	17	16,255,571	678,135	2,849,136	19,782,843
Barts Health NHS Trust	12	15,632,000	631,252	2,081,125	18,344,377
University Hospitals Birmingham NHS Foundation Trust	12	12,173,650	361,733	986,750	13,522,133
Mid and South Essex NHS Foundation Trust	12	580,057	70,358	532,000	1,182,415
East Kent Hospitals University NHS Foundation Trust	#	#	#	#	#
2022/23					
Manchester University NHS Foundation Trust	21	9,764,671	664,363	2,150,943	12,579,977
Mid and South Essex NHS Foundation Trust	20	31,363,460	1,354,796	4,215,145	36,933,401
University Hospitals Sussex NHS Foundation Trust	18	35,041,333	1,195,710	4,166,429	40,403,472
East Kent Hospitals University NHS Foundation Trust	12	16,141,191	309,719	1,544,221	17,995,131
Barts Health NHS Trust	9	18,723,813	1,027,780	2,460,000	22,211,593
University Hospitals Birmingham NHS Foundation Trust	6	11,628,750	355,467	958,750	12,942,967

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Trust Name --Primary Injury	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Barts Health NHS Trust					
Cerebral Palsy	5	27,575,719	1,156,082	2,945,000	31,676,801
Brain Damage	#	#	#	#	#
Adtnl/unnecessary Operation(s)	#	#	#	#	#
Fatality	#	#	#	#	#
Renal Damage/ Failure	#	#	#	#	#
Scarring	#	#	#	#	#
Lung Disease	#	#	#	#	#
Cardiovascular Condition	#	#	#	#	#
Developmental Delay	#	#	#	#	#
Bowel Damage/ Dysfunction	#	#	#	#	#
Partial Hearing Loss	#	#	#	#	#
Advanced Stage Cancer	#	#	#	#	#
Unnecessary Pain	#	#	#	#	#
Limb Deformity	#	#	#	#	#
Loss Of Baby	#	#	#	#	#
East Kent Hospitals University NHS Foundation Trust					
Fatality	5	503,400	109,036	379,500	991,936
Unnecessary Pain	#	#	#	#	#
Joint Damage	#	#	#	#	#
Removal Of Testicle	#	#	#	#	#
Cerebral Palsy	#	#	#	#	#
Meningitis	#	#	#	#	#
Anaphylact Shock/Allergic Shock/allergy	#	#	#	#	#
Brain Damage	#	#	#	#	#
Limb Deformity	#	#	#	#	#
Manchester University NHS Foundation Trust					
Fatality	14	714,461	183,810	786,500	1,684,771
Cerebral Palsy	6	12,300,186	939,264	1,932,200	15,171,650
Adtnl/unnecessary Operation(s)	6	8,128,785	311,037	492,000	8,931,821
Brain Damage	#	#	#	#	#
Unnecessary Pain	#	#	#	#	#
Burn(s)	#	#	#	#	#
Other	#	#	#	#	#
Advanced Stage Cancer	#	#	#	#	#
Erb's Palsy	#	#	#	#	#
Poor Outcome - Fractures Etc.	#	#	#	#	#
Stillborn	#	#	#	#	#
Renal Damage/ Failure	#	#	#	#	#
Cancer	#	#	#	#	#
Dental Damage	#	#	#	#	#
Bladder Damage	#	#	#	#	#
Psychiatric/Psychological Dmge	#	#	#	#	#
Infectious Diseases	#	#	#	#	#
Scarring	#	#	#	#	#
Chromosomal Abnormality	#	#	#	#	#
Deafness	#	#	#	#	#
Other Visual Problems	#	#	#	#	#
Partial Paralysis	#	#	#	#	#
Mid and South Essex NHS Foundation Trust					
Adtnl/unnecessary Operation(s)	7	190,563	40,213	340,295	571,071
Fatality	7	355,666	41,499	292,000	689,165
Brain Damage	6	30,209,368	765,537	2,139,500	33,114,405
Cerebral Palsy	6	22,432,555	718,757	2,155,000	25,306,312
Unnecessary Pain	#	#	#	#	#
Bowel Damage/ Dysfunction	#	#	#	#	#
Other Visual Problems	#	#	#	#	#
Meningitis	#	#	#	#	#
Dental Damage	#	#	#	#	#
Removal Of Testicle	#	#	#	#	#
Developmental Delay	#	#	#	#	#
Other Infection	#	#	#	#	#
Scarring	#	#	#	#	#
Poor Outcome - Fractures Etc.	#	#	#	#	#
Bladder Damage	#	#	#	#	#
Rupture	#	#	#	#	#

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FOI View	Closed Settled
Claim_Outcome	Successful

Trust Name --Primary Injury	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Amputation - Lower	#	#	#	#	#
Loss Of Baby	#	#	#	#	#
Viral Infection	#	#	#	#	#
Fracture	#	#	#	#	#
Infection (bacterial)	#	#	#	#	#
University Hospitals Birmingham NHS Foundation Trust					
Fatality	#	#	#	#	#
Cerebral Palsy	#	#	#	#	#
Brain Damage	#	#	#	#	#
Peritonitis	#	#	#	#	#
Scarring	#	#	#	#	#
Respiratory Disorder/ Failure	#	#	#	#	#
Unnecessary Pain	#	#	#	#	#
Hypoglycaemia	#	#	#	#	#
Rupture	#	#	#	#	#
Wrongful Birth	#	#	#	#	#
Tissue Damage	#	#	#	#	#
Adtnl/unnecessary Operation(s)	#	#	#	#	#
Fracture	#	#	#	#	#
Removal Of Testicle	#	#	#	#	#
Poor Outcome - Fractures Etc.	#	#	#	#	#
University Hospitals Sussex NHS Foundation Trust					
Cerebral Palsy	8	36,862,031	1,142,040	4,045,629	42,049,700
Fatality	7	666,244	140,302	552,703	1,359,248
Adtnl/unnecessary Operation(s)	#	#	#	#	#
Brain Damage	#	#	#	#	#
Compartment Syndrome	#	#	#	#	#
Perforation	#	#	#	#	#
Cardiovascular Condition	#	#	#	#	#
Peritonitis	#	#	#	#	#
Unnecessary Pain	#	#	#	#	#
Bowel Damage/ Dysfunction	#	#	#	#	#
Poor Outcome - Fractures Etc.	#	#	#	#	#
Limb Deformity	#	#	#	#	#
Removal Of Fallopian Tube	#	#	#	#	#
Amputation - Lower	#	#	#	#	#
Infertility	#	#	#	#	#
Erb's Palsy	#	#	#	#	#