



Resolution

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FOI_6360

The following information was requested on 8 January 2024 and clarified on 10 January 2024:

[You requested on 8 January 2024]

Can you search for all of the anaesthetic complications by payout amount, date, category and cause for the past 10 years? I would like to present this data for an anaesthetic group to focus on trying to develop an educational and engineering solutions.

[We sought clarification on 9 January 2024]

Before we can respond, we will need clarification regarding a few points.

*NHS Resolution does not hold data on anaesthetic complications. We would be able to provide the data for **claims** arising from specialty: Anaesthesia. Data in respect of anaesthetic complications will be held by individual NHS trusts.*

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 three tabs in the spreadsheet).

We could provide you with the number of claims received for the specialty Anaesthesia and also the number closed with nil damages paid; number closed with damages payment and associated costs; breakdown by primary cause; breakdown by primary injury. We could also break the data down by NHS trusts.

Please provide us with the time period you would like the data to cover (we hold data in Financial Years).

We feel it may also be helpful for you to take a look at our Freedom of Information Disclosure log and the responses we publish: [Fol Requests Archive - Anaesthesia](#).

Please, let us know what data you would like to receive.

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

[You replied on 10 January 2024]

Thank you for getting back to me, please let me clarify the request.

I'm looking to present some data about anaesthetic litigation, specifically medication errors in anaesthetics.

The presentation would be looking to estimate the percentage of complications that could be related to medication errors as a part of the whole complication rate within anaesthetics. This

relates to the WHO 3rd Global Patient Safety Challenge, Medication Without Harm. This started in 2017 and aimed to reduce medication-related harm globally by 50% in 5 years.

*So, my request would be for data arising from the specialty of **Anaesthetics** preferably for the for the years of 2017 to 2022.*

And if possible, for the preceding years of 2012 to 2016.

The CNST codes this would be looking at would be number Cause Code 68 – Medication errors.

Under injury Codes 7 – Anaesthetic.

Under Specialty Codes 3 – Anaesthesia.

The amount of claim settlements would be useful as will all claims made even if there was no settlement.

Is there any data on the costs of legal fees for the different cases? Is this separate to the settlement fees or does this tend to be a percentage of the settlement payout?

Our Response

Please find attached the requested information we are able to provide. This information only covers England and not the rest of the UK.

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>.

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.

Please also note that the data shows a variation in the number of claims received and closed during this period. This is a reflection of the nature of individual claims received by NHS Resolution, which can vary significantly. As such, these fluctuations cannot be interpreted as trends.

Please also note that there will be other claims related to the Specialty Anaesthesia. However, we have carried out a search for the claims where any cause is 'Medication Errors' and Specialty is 'Anaesthesia'.

Table 1 shows: - Number of Clinical Claims and Incidents received between financial years 2012/13 and 2022/23 where any Cause is 'Medication Errors' and Specialty is 'Anaesthesia'.

Table 2 shows: - Number and Cost of Clinical Claims Closed (or settled as a periodical payment order) between financial years 2012/13 and 2022/23 with a damages payment, where any Cause is 'Medication Errors' and Specialty is 'Anaesthesia'. 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 3 shows: - Analysis of Primary Injuries for Clinical Claims Closed (or settled as a periodical payment order) between financial years 2012/13 and 2022/23 with a damages payment where any Cause is 'Medication Errors' and Specialty is 'Anaesthesia'. 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 4 shows: - Number and Cost of Clinical Claims Closed between financial years 2012/13 and 2022/23 with **NIL** damages paid where any Cause is 'Medication Errors' and Specialty is 'Anaesthesia'.

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.

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.

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, 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 of Clinical Claims and Incidents received between financial years 2012/13 and 2022/23 where any Cause is 'Medication Errors' and Specialty is 'Anaesthesia'.

Table 2: Number and Cost of Clinical Claims Closed (or settled as a periodical payment order) between financial years 2012/13 and 2022/23 with a damages payment, where any Cause is 'Medication Errors' and Specialty is 'Anaesthesia'. 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 3: Analysis of Primary Injuries for Clinical Claims Closed (or settled as a periodical payment order) between financial years 2012/13 and 2022/23 with a damages payment where any Cause is 'Medication Errors' and Specialty is 'Anaesthesia'. 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 4: Number and Cost of Clinical Claims Closed between financial years 2012/13 and 2022/23 with NIL damages paid where any Cause is 'Medication Errors' and Specialty is 'Anaesthesia'.

Table 1: Number of Clinical Claims and Incidents received between financial years 2012/13 and 2022/23 where any Cause is 'Medication Errors' and Specialty is 'Anaesthesia'.

FOI View	Notified
Year of Notification	No. of Claims
2012/13	9
2013/14	18
2014/15	19
2015/16	15
2016/17	14
2017/18	16
2018/19	14
2019/20	17
2020/21	10
2021/22	15
2022/23	12
Grand Total	159

Table 2: Number and Cost of Clinical Claims Closed (or settled as a periodical payment order) between financial years 2012/13 and 2022/23 with a damages payment, where any Cause is 'Medication Errors' and Specialty is 'Anaesthesia'. 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.

FOI View	Closed Settled
Claim_Outcome	Successful

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2012/13	8	134,250	7,735	112,650	254,635
2013/14	5	74,500	8,908	81,000	164,408
2014/15	15	162,165	28,738	224,625	415,528
2015/16	8	196,938	20,288	198,250	415,476
2016/17	7	760,000	79,434	339,550	1,178,984
2017/18	12	1,013,700	90,148	568,506	1,672,353
2018/19	16	682,195	109,287	439,721	1,231,204
2019/20	17	1,164,493	221,045	920,219	2,305,757
2020/21	12	2,235,979	183,012	1,155,251	3,574,243
2021/22	7	2,471,411	324,398	947,887	3,743,696
2022/23	13	856,912	59,958	349,850	1,266,720
Grand Total	120	9,752,543	1,132,952	5,337,509	16,223,004

Table 3: Analysis of Primary Injuries for Clinical Claims Closed (or settled as a periodical payment order) between financial years 2012/13 and 2022/23 with a damages payment where any Cause is 'Medication Errors' and Specialty is 'Anaesthesia'. 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.

FOI View	Closed Settled
Claim_Outcome	Successful

Primary Injury	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Psychiatric/Psychological Dmge	40	667,950	142,485	925,330	1,735,765
Unnecessary Pain	23	559,483	84,426	496,821	1,140,730
Cardiac Arrest	9	955,489	160,637	805,202	1,921,328
Anaphylact Shock/Allergic Shock/allergy	9	57,100	10,010	131,346	198,456
Anaesthetic	8	348,688	35,760	241,402	625,850
Fatality	6	1,100,500	49,597	330,500	1,480,597
Adtnl/unnecessary Operation(s)	6	81,000	7,752	82,500	171,252
Brain Damage	#	#	#	#	#
Respiratory Disorder/ Failure	#	#	#	#	#
Other	#	#	#	#	#
Cardiovascular Condition	#	#	#	#	#
Other Visual Problems	#	#	#	#	#
Multiple Disabilities	#	#	#	#	#
Not Specified	#	#	#	#	#
Partial Paralysis	#	#	#	#	#
Hemiparesis	#	#	#	#	#
Grand Total	120	9,752,543	1,132,952	5,337,509	16,223,004

Table 4: Number and Cost of Clinical Claims Closed between financial years 2012/13 and 2022/23 with NIL damages paid where any Cause is 'Medication Errors' and Specialty is 'Anaesthesia'.

FOI View Closed Settled
Claim_Outcome Unsuccessful

Year of Closure	No. of Claims	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2012/13	#	#	#	#
2013/14	#	#	#	#
2014/15	#	#	#	#
2015/16	5	#	0	#
2016/17	7	8,863	0	8,863
2017/18	#	#	#	#
2018/19	#	#	#	#
2019/20	#	#	#	#
2020/21	6	10,167	0	10,167
2021/22	#	#	#	#
2022/23	#	#	#	#
Grand Total	41	95,115	0	95,115