NHS Resolution

8th Floor,
10 South Colonnade
Canary Wharf
London
E14 4PU
Telephone: 020 7811 2700

February 2024
FOI_6371

The following information was requested and clarified on 19 January 2024:

1. How many legal cases have been brought against NHS hospitals by patients after negligent care resulted in amputation between January 2020-now?

By 'negligent care', I refer to; Delayed treatment of an infection, Failure to recognise that the blood supply has been cut off to a limb, Poor management of peripheral neuropathy in diabetic patients, A surgeon operating on the wrong body part, Deep vein thrombosis (DVT) or a delay in diagnosis of a DVT, Incorrect treatment of fractures causing tissue damage, Negligently performed joint replacement surgery.

2. Of those cases, how many resulted in a successful outcome for the patient?
3. What is the total amount of compensation paid out during this time period for such claims?

Our Response

We are able to provide some of the requested information. It might be helpful to explain that when claims are notified to NHS Resolution they are categorised against pre-defined cause, injury and speciality codes, unfortunately *Poor management of peripheral neuropathy or Negligently performed joint replacement surgery* is not one of these. Therefore, while there may be information held in our records, we are not readily able to identify the relevant files by searching the database. To do so would involve a manual review of all cases to identify which ones relate to claims involving *Poor management of peripheral neuropathy or Negligently performed joint replacement surgery*. NHS Resolution receives thousands of claims each year.

Therefore, we estimate that the cost of complying with the request in its entirety would exceed the 'appropriate limit'. Section 12(1) of the FOIA is a provision which allows a public authority to refuse to comply with a request for information where the cost of compliance is estimated to exceed a set limit (known as the 'appropriate limit'). The 'appropriate limit' for NHS Resolution is £450. This equates to 18 hours of work at the rate of £25 per hour set out in the 'Fees Regulations'.

We are able to provide you with the causes as it is recorded in our case management system, of the claims related to amputation as an injury. Please see the attached tables. This information covers the amputation claims in England and not the rest of the UK.

NB: 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.

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 requested information we are able to provide. We are able to provide the information in complete financial years.

Table 1 shows: -. Number of Clinical Claims and Incidents received between financial years 2019/20 and 2022/23 where any Injury is "**Amputation**" (Upper or Lower), broken down by Primary Cause.

Table 2 shows: - Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2019/20 and 2022/23 with a damages payment, where any Injury is "**Amputation**" (Upper or Lower), broken down by Primary Cause. 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: - Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2019/20 and 2022/23 with a damages payment, where any Injury is "**Amputation**" (Upper or Lower). 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 of Clinical Claims received between financial years 2019/20 and 2022/23 where "**Amputation**" (Upper or Lower) and "**Thrombosis/Embolism**" are both recorded at any injury level.

Table 5 shows: - Number and Cost of Clinical Claims Closed between financial years 2019/20 and 2022/23 with a damages payment, where **"Amputation**" (Upper or Lower) and "**Thrombosis/Embolism**" are both recorded at any injury level.

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.

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/

Freedom of Information Request# 6371
Data correct as at: The end of every financial year

NHS Resolution

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 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.

Freedom of Information Request# 6371
Data correct as at: The end of every financial year

Table 1: Number of Clinical Claims and Incidents received between financial years 2019/20 and 2022/23 where any Injury is "Amputation" (Upper or Lower), broken down by Primary Cause.

FOI View scheme	Notified (All)

Primary Cause	No. of Claims
Primary Causes with less than 5 claims (19 causes)	**34**
Fail / Delay Treatment	499
Failure/Delay Diagnosis	246
Fail/Delay Referring To Hosp.	181
Other	95
Inappropriate Treatment	62
Inadequate Nursing Care	42
Failure To Perform Tests	39
Fail To Recog. Complication Of	27
Fail To Warn-Informed Consent	27
Delay In Performing Operation	24
Fail/Delay Admitting To Hosp.	23
Fail To Follow-Up Arrangements	20
Bacterial Infection	17
Failure To Interpret X-Ray	10
Lack Of Assistance/Care	10
Inappropriate Discharge	9
Medication Errors	9
Intra-Op Problems	8
Operator Error	7
Not Specified	6
Failure To Perform Operation	5
Failure To X-Ray	5
Grand Total	**1,405**

Freedom of Information Request# 6371
Data correct as at: The end of every financial year

Table 2: Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2019/20 and 2022/23 with a damages payment, where any Injury is "Amputation" (Upper or Lower), broken down by Primary Cause. 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
Clinical	Clinical

Primary Cause	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Primary Causes with less than 5 claims (25 Causes)	**44**	**35,431,338**	**1,797,448**	**5,945,918**	**43,174,704**
Fail / Delay Treatment	286	93,683,259	8,292,291	30,199,073	132,174,623
Failure/Delay Diagnosis	113	80,144,705	4,860,515	15,200,589	100,205,810
Inappropriate Treatment	52	20,698,213	1,681,545	4,885,341	27,265,099
Fail/Delay Referring To Hosp.	42	2,884,930	763,581	2,500,137	6,148,648
Inadequate Nursing Care	37	4,789,287	990,868	2,624,528	8,404,683
Fail To Recog. Complication Of	27	22,813,238	1,391,290	4,793,366	28,997,893
Fail To Warn-Informed Consent	15	5,912,286	504,435	1,669,648	8,086,369
Failure To Perform Tests	12	2,947,907	321,253	1,042,424	4,311,584
Delay In Performing Operation	10	7,597,914	384,479	1,418,537	9,400,931
Fail To Follow-Up Arrangements	9	3,103,359	220,681	1,072,825	4,396,865
Fail/Delay Admitting To Hosp.	9	1,963,204	328,680	1,049,039	3,340,923
Intra-Op Problems	9	7,779,806	635,097	2,181,867	10,596,770
Operator Error	7	3,934,704	143,355	931,340	5,009,399
Bacterial Infection	7	12,467,580	412,190	1,278,500	14,158,270
Failure To Interpret X-Ray	6	1,241,697	155,669	630,500	2,027,866
Failure To Perform Operation	5	1,322,500	334,182	938,162	2,594,844
Grand Total	**690**	**308,715,928**	**23,217,560**	**78,361,794**	**410,295,282**

Freedom of Information Request# 6371
Data correct as at: The end of every financial year

NHS Resolution

Table 3: Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2019/20 and 2022/23 with a damages payment, where any Injury is "Amputation" (Upper or Lower). 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
Clinical	Clinical

----Year of Closure (Settlement Year for PPOs) ---Amputation Type	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2019/20					
Amputation - Lower	133	44,073,892	3,886,639	14,121,232	62,081,763
Amputation - Upper	25	5,284,664	373,745	1,552,417	7,210,825
2020/21					
Amputation - Lower	126	42,886,968	4,437,588	14,199,279	61,523,834
Amputation - Upper	23	7,037,536	503,671	1,548,640	9,089,847
2021/22					
Amputation - Lower	156	83,054,576	6,069,205	21,522,233	110,646,013
Amputation - Upper	28	9,645,635	641,224	2,426,966	12,713,826
2022/23					
Amputation - Lower	177	103,387,900	6,479,457	20,148,777	130,016,134
Amputation - Upper	22	13,344,757	826,032	2,842,250	17,013,039
Grand Total	**690**	**308,715,928**	**23,217,560**	**78,361,794**	**410,295,282**

Freedom of Information Request# 6371
Data correct as at: The end of every financial year

Table 4: Number of Clinical Claims received between financial years 2019/20 and 2022/23 where "Amputation" (Upper or Lower) and "Thrombosis/Embolism" are both recorded at any injury level.

FOI View	Notified
Clinical	Clinical
Amputation & Thrombosis/Embolism at any Injury level	Yes

Year of Notification	No. of Claims
2019/20	#
2020/21	#
2021/22	#
2022/23	10

Freedom of Information Request# 6371
Data correct as at: The end of every financial year

NHS Resolution

Table 5: Number and Cost of Clinical Claims Closed between financial years 2019/20 and 2022/23 with a damages payment, where "Amputation" (Upper/Lower) and "Thrombosis/Embolism" are both recorded at any injury level.

FOI View	Closed Settled
Clinical	Clinical
Amputation & Thrombosis/Embolism at any Injury level	Yes

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2022/23	#	#	#	#	#
Grand Total	**#**	**#**	**#**	**#**	**#**