NHS Resolution

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April 2024
FOI_6453

The following information was requested on 14 March 2024 and clarified on 15 March 2024:

[Requested on 14 March 2024]

I am writing to request information under the Freedom of Information Act, can you please provide the following:
Requesting data between April 1st 2020 till March 2024

1. How many medication error claims received by NHS Resolution between 1st April 2020 - (now March 2024) concerning children under the age of 18?
1a) Of these claims, how many were settled with damages, how many without merit and how many remain open, broken down by year?

1b) What is the total cost of closed claims? Broken down by year and broken down by; payments for claimant legal costs, NHS legal costs and damages.

2. What types of drugs were involved in paediatric medication error claims? Top 10 most prevalent drugs in claims?
3. What were the top 5 most prevalent causes for medication error claims? I.e. Incorrect dose administered?

[We sought clarification on 15 March 2024]

Thank you for your request below.

We are working on responding to you. I would like to clarify two points:

1. We will be able to provide the data in financial years from 2020/21 to 2022/23. The Data for 2023/23 will be available on request from July/August 2024.
2. We do not hold the information about what drug was involved.

We can provide all other information that you requested. I hope this is useful for you.

[You replied on 15 March 2024]

Thank you for your response - That's absolutely fine.

Our Response

Please find attached the information we are able to provide. As the data for the financial year 2023/24 is currently unavailable, we have provided you with the data for the financial years 2019/20 – 2022/23. The data for the financial year 2023/24 will be available on request from August 2024.

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 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.

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 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.

Table 1 shows: - Number of Clinical Claims and/or Incidents received between financial years 2019/20 and 2022/23 where the Primary cause is **Medication Errors** and the patient is a child (Age at incident between 0 and 17 years).

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 the Primary cause is **Medication Errors** and the patient is a child (Age at incident between 0 and 17 years). 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 between financial years 2019/20 and 2022/23 with **NIL** damages paid where the Primary cause is **Medication Errors** and the patient is a child (Age at incident between 0 and 17 years). The data includes the legal costs paid up until the end of each relevant financial year of closure.

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.

In response to **Q2 and Q3** of your request:

"Medication error" is a cause code and our data does not extend to sub-causes. As such we are unable to answer your question 3 as it seeks the causes of a cause code which information is not held.

We wish to draw your attention to the leaflet produced by our Safety and Learning Team, published here: Paediatric medication errors - NHS Resolution
This paediatric medicine errors publication reflects analysis from a larger claims sample, and we believe is relevant to your request. Please note that the analysis carried out by our Safety and Learning Team requires a deep dive and does not use the same extraction method used for our FOI replies. The analysis carried out by the Safety and Learning Team would likely exceed the FOI cost limit.

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 have provided the information we are able to provide within the FOI cost limit.

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/

Freedom of Information Request# 6453
Data correct as at: The end of every financial year

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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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T A B L E O F C O N T E N T S

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Freedom of Information Request# 6453
Data correct as at: The end of every financial year

Table 1: Number of Clinical Claims and/or Incidents received between financial years 2019/20 and 2022/23 where the Primary cause is Medication Errors and the patient is a child (Age at incident between 0 and 17 years).

FOI View	Notified

Year of Notification	No. of Claims
2019/20	20
2020/21	21
2021/22	22
2022/23	17
Grand Total	**80**

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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 the Primary cause is Medication Errors and the patient is a child (Age at incident between 0 and 17 years). 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
scheme	(All)

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2019/20	10	3,106,601	281,037	567,057	3,954,694
2020/21	5	73,940	72,029	248,550	394,519
2021/22	10	524,697	47,639	351,996	924,332
2022/23	16	2,898,927	166,336	647,620	3,712,882
Grand Total	**41**	**6,604,164**	**567,041**	**1,815,222**	**8,986,428**

Freedom of Information Request# 6453
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Table 3: Number and Cost of Clinical Claims Closed between financial years 2019/20 and 2022/23 with NIL damages paid where the Primary cause is Medication Errors and the patient is a child (Age at incident between 0 and 17 years). The data includes the legal costs paid up until the end of each relevant financial year of closure.

FOI View	Closed Settled

Year of Closure	No. of Claims	NHS Legal Costs Paid	Claimant Legal Costs Paid
2019/20	12	37,282	0
2020/21	9	12,065	0
2021/22	17	164,224	0
2022/23	7	10,691	0
Grand Total	**45**	**224,261**	**0**