NHS Resolution

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April 2024
FOI_6458

The following information was requested on 19th March 2024:

Please could I have both the volume and amount of claims for psychiatric and psychological damage for the past 5 years.

Do you also do a breakdown of volume and amount of psychiatric and psychological damage of claims by family members of a person who has been injured or killed as a result of medical negligence? If so, please could I have those?

Our Response

Thank you for your request for information. Please find attached the requested information we are able to provide. Please note we only hold information for England.

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 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 unsuccessful), 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 by NHS Resolution, which can vary significantly. In some cases, this can be affected by an adverse issue involving a number of patients. As such, these fluctuations cannot be interpreted as trends.

Table 1 shows: - Number of Clinical Claims and Incidents received between financial years 2018/19 and 2022/23 where the Primary Injury is '**Psychiatric/Psychological Damage**'.

Table 2 shows: - Number and Cost of Clinical claims Closed between financial years 2018/19 and 2022/23 with a damages payment, where the Primary Injury is '**Psychiatric/Psychological Damage'**. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Table 3 shows: - Number and Cost of Clinical Claims Closed between financial years 2018/19 and 2022/23 with **NIL** damages paid where the Primary Injury is '**Psychiatric/Psychological Damage'**. The data includes the legal costs paid up until the end of each relevant financial year of closure.

Low Numbers
We have supressed 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.

<u>In terms of part **2** of your request for</u>: *Do you also do a breakdown of volume and amount of psychiatric and psychological damage of claims by family members of a person who has been injured or killed as a result of medical negligence? If so, please could I have those?*

We are unable to provide this with information without manually interrogating individual claims files. 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 estimate that we would need to manually review in excess of 1000 claims files, and at a very conservative 5 minutes to review each claim file it would take approximately 83 hours to comply with this part of the request. We have provided the information we are to extract within the FOI 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.

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# 6458
Data correct as at: The end of every financial year

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

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# 6458
Data correct as at: The end of every financial year

Table 1: Number of Clinical Claims and Incidents received between financial years 2018/19 and 2022/23 where the Primary Injury is 'Psychiatric/Psychological Dmge'.

FOI View	Notified
scheme	(All)

Year of Notification	No. of Claims
2018/19	320
2019/20	446
2020/21	406
2021/22	505
2022/23	517
Grand Total	**2,194**

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Table 2: Number and Cost of Clinical claims Closed between financial years 2018/19 and 2022/23 with a damages payment, where the Primary Injury is 'Psychiatric/Psychological Dmge'. 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	(All)
Claim_Outcome	Successful

Year of Closure	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2018/19	186	4,935,229	1,081,803	5,243,432	11,260,464
2019/20	237	5,810,167	1,563,892	7,125,555	14,499,615
2020/21	206	8,605,121	1,389,352	6,259,276	16,253,749
2021/22	194	6,541,826	1,364,963	6,532,665	14,439,455
2022/23	231	8,649,594	1,852,550	7,830,618	18,332,762
Grand Total	**1,054**	**34,541,937**	**7,252,561**	**32,991,547**	**74,786,045**

Freedom of Information Request# 6458
Data correct as at: The end of every financial year

Table 3: Number and Cost of Clinical Claims Closed between financial years 2018/19 and 2022/23 with NIL damages paid where the Primary Injury is 'Psychiatric/Psychological Dmge'. The data includes the legal costs paid up until the end of each relevant financial year of closure.

FOI View	Closed Settled
scheme	(All)
Claim_Outcome	Unsuccessful

Year of Closure	No. of Claims	NHS Legal Costs Paid	Claimant Legal Costs Paid
2018/19	171	522,181	#
2019/20	155	819,392	7,000
2020/21	173	975,919	#
2021/22	208	842,609	#
2022/23	242	880,138	8,130
Grand Total	**949**	**4,040,239**	**#**