



Resolution

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April 2024

FOI_6481

The following information was requested on 3 April 2024:

1. How many clinical negligence claims were there, where damages were paid out for the financial years 2021, 2022, 2023, 2024/Current? Please organise these by financial years.

2. What was the total amount of damages paid in relation to these claims?

3. For the financial years stated above, please provide a breakdown of the primary cause of damages, where a claim has been made where a payment(s) was/were made.

(For Reference please see page 4, primary causes of FOI request [#5421](#) also provided)

4. For the years listed above which ten NHS Trusts have had the most number of claims made against them, where a payout has been made? For each of these ten trusts please provide (i) the name of the trust, (ii) the number of claims paid out and (iii) the total value of the damages paid out in those claims.

NOTE: Please note that this question relates to the year in which the claim was settled, not the year the incident happened or the year the claim was lodged.

5a. Please provide the number of claims where any amount of damages were paid out, in relation to Oxley's NHS Foundation Trust, including the year of closure, Primary cause, damages paid.

5b. Please provide the number of claims where any amount of damages were paid out, in relation to Greenwich and Lewisham Trust, including the year of closure, Primary cause, damages paid.

(For ease, I have supplied a reference document for the layout) this was from a similar request number [#5421](#))

(Please note this should include all claims including any made directly to the trust or via any other avenue)

Our Response

Please find attached the requested information. This information only covers England and not the rest of the UK. The data for the financial year 2023/24 is currently unavailable and will be available on request from August 2024. Therefore, we have provided the information for the following financial years: 2020/21 – 2022/23.

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.

For an explanation of the CNST scheme referred to please refer to our website here: - [Clinical Negligence Scheme for Trusts - NHS Resolution](#)

Table 1 shows: - Number and Damages Payment for CNST Claims Closed with a damages payment or settled with a periodical payment order between financial years 2020/21 and 2022/23. The data includes the damages paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Table 2 shows: - Analysis of Primary Causes for CNST Claims Closed (or settled with a periodical payment order) between financial years 2020/21 and 2022/23 with a damages payment. The data includes the damages paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Table 3 shows: - Analysis of top 10 Trusts, by number of claims, for CNST Claims Closed (or settled with a periodical payments order) between financial years 2020/21 and 2022/23 with a Damages Payment. The data includes the damages paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Table 4 shows: - Analysis of Primary Causes for CNST Claims Closed between financial years 2020/21 and 2022/23 with a damages payment, for Oxleas NHS Foundation Trust. The data includes the damages paid up until the end of each relevant financial year of closure.

Table 5 shows: - Analysis of Primary Causes for CNST Claims Closed (or settled with a periodical payment order) between financial years 2020/21 and 2022/23 with a damages payment, for Lewisham and Greenwich NHS Trust. The data includes the

damages 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.

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 several [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 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 and Damages Payment for CNST Claims Closed with a damages payment or settled with a periodical payment order between financial years 2020/21 and 2022/23. The data includes the damages paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Table 2: Analysis of Primary Causes for CNST Claims Closed (or settled with a periodical payment order) between financial years 2020/21 and 2022/23 with a damages payment. The data includes the damages paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

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FOI View	Closed Settled
scheme	CNST
Claim_Outcome	Successful

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid
2020/21	6,557	1,169,505,099
2021/22	7,339	1,441,425,911
2022/23	6,775	1,455,005,947
Grand Total	20,671	4,065,936,957

Table 2: Analysis of Primary Causes for CNST Claims Closed (or settled with a periodical payment order) between financial years 2020/21 and 2022/23 with a damages payment. The data includes the damages paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

FOI View scheme Claim_Outcome	Closed Settled CNST Successful
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Primary Causes	No. of Claims	Damages Paid
Fail / Delay Treatment	4,698	807,620,110
Failure/Delay Diagnosis	3,687	630,230,069
Inappropriate Treatment	1,321	194,996,195
Inadequate Nursing Care	1,307	63,951,103
Intra-Op Problems	942	157,878,319
Fail To Warn-Informed Consent	793	129,899,959
Operator Error	626	62,301,841
Failure To Interpret X-Ray	571	50,072,765
Fail To Recog. Complication Of	520	175,952,587
Medication Errors	454	32,747,594
Fail To Follow-Up Arrangements	419	36,314,828
Failure To Perform Tests	393	90,359,191
Delay In Performing Operation	362	79,645,948
Fail To Supervise	338	34,110,578
Fail To Act On Abnorm Test Res	331	112,946,252
Foreign Body Left In Situ	262	7,353,065
Wrong Diagnosis	237	31,282,271
Lack Of Assistance/Care	218	20,187,484
Failure To X-Ray	201	11,982,376
Inappropriate Discharge	179	19,558,431
Err With Agnt/Dose/Route/Selec	149	18,780,796
Failure To Perform Operation	147	15,481,549
Fail/Delay Referring To Hosp.	142	22,285,511
Equipment Malfunction	127	13,454,983
Fail/Delay Admitting To Hosp.	126	34,714,650
Fail Antenatal Screening	121	184,312,416
Fail To Monitor 2nd Stg Labour	116	229,292,092
Wrong Site Surgery	106	5,280,205
Fail To Make Resp To Abnrm FHR	103	254,282,000
Unexpected Death	96	11,443,554
Self Harm	90	15,539,923
Other	84	5,899,112
Perform. Of Op. Not Indicated	80	12,342,599
Fail To Interpret USS	80	41,197,358
Bacterial Infection	79	29,119,248
Fail To Infrm Test Rslts	78	24,044,380
Inadequate Monitoring Intra-Op	71	8,868,199
Fail To Monitor 1st Stg Labour	71	106,449,024
Infusion Problems	69	3,149,091
Diathermy Burns/react. To Prep	62	2,108,198
Fail To Carry Out PO Observs.	61	19,413,507
Perineal Tear-1st,2nd,3rd Deg	54	12,588,729
Lack Of Pre-Op Evaluation	54	8,110,703
Application Of Excess Force	53	15,631,780
Retained Instrument Post-Operation	50	1,470,197
Birth Defects	38	100,197,731

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FOI View scheme Claim_Outcome	Closed Settled CNST Successful
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Primary Causes	No. of Claims	Damages Paid
Failed Infection Control Policy/Hospital Hygiene	32	653,574
Forceps Delivery	31	11,883,953
Cross Infection	30	5,677,554
Not Specified	27	1,837,079
Sexual Abuse	26	784,163
Incorrect Injection Site	25	3,311,290
Failed Sterilisation	25	2,159,635
Fail To Diag Pre-Eclampsia	24	5,641,132
Poor Application Of Plstr Cast	22	821,097
Intubation Problems	21	13,160,352
Lack Of Facilities/Equipment	20	470,815
Inapprop. Case Selection	19	2,947,870
Inapp Use Of Forceps/Ventouse	18	8,179,098
Assault, Etc By Hospital Staff	18	448,904
Fail To Correctly Apply Forcep	18	3,490,170
Injured By Another Patient	14	216,629
MisplacedNaso/OrogastricTubeNotDet	14	832,393
Fail Mon Dose/rate Syntocinon	13	35,513,244
Premature Ceasure Of Treatment	10	981,708
Labial Tear	10	720,472
Inadqte Monitor In Recov Room	9	385,149
Injury To Others By Patient	9	3,501,622
Tooth Inj & Patient Posit Prob	8	91,922
Probs With Medical Records	8	1,755,875
Improp. Delegation To Junior	7	470,303
Fail/Delay Resus By Paediatric	6	12,759,644
Re-Canalisation	6	494,525
Inc In Comm By Absc/disch Pat	#	#
Removal & Retention Of Organs	#	#
Unlawful Detention - Mntl Hlth	#	#
Wrong Route Admin of Chemotherapy	#	#
EscapeSecurePrm byMHPTsTransfPrisoners	#	#
Repeat Attempt Forcep/Ventouse	#	#
Fail/Delay Avail Op Thtre	#	#
Fail/Delay Of Avail Emgy Anaes	#	#
Problem Blood Fluids	#	#
(blank)	#	#
Wrong Application Of Electrode	#	#
Fail/Delay Avail Of SCBU Beds	#	#
InhospMaternalDeathPostPartumHaemorrCS	#	#
Unknown	#	#
InPatientSuicide- NonCollapsible Rails	#	#
Clinical Trial	#	#
Grand Total	20,671	4,065,936,957

Table 3: Analysis of top 10 Trusts, by number of claims, for CNST Claims Closed (or settled with a periodical payments order) between financial years 2020/21 and 2022/23 with a Damages Payment. The data includes the damages paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

FOI View	Closed Settled
scheme	CNST
Claim_Outcome	Successful

Member Name	No. of Claims	Damages Paid
Manchester University NHS Foundation Trust	437	72,588,678
Mid and South Essex NHS Foundation Trust	429	102,638,095
University Hospitals Birmingham NHS Foundation Trust	419	78,915,181
Northern Care Alliance NHS Foundation Trust	405	58,011,826
United Lincolnshire Hospitals NHS Trust	338	33,554,320
Barts Health NHS Trust	330	104,284,604
University Hospitals of Leicester NHS Trust	309	75,203,690
University Hospitals Sussex NHS Foundation Trust	285	115,684,263
University Hospitals of Derby and Burton NHS Foundation Trust	280	40,208,594
The Leeds Teaching Hospitals NHS Trust	272	39,216,110
Grand Total	3,504	720,305,362

Table 4: Analysis of Primary Causes for CNST Claims Closed between financial years 2020/21 and 2022/23 with a damages payment, for Oxleas NHS Foundation Trust. The data includes the damages paid up until the end of each relevant financial year of closure.

FOI View	Closed Settled
scheme	CNST
Claim_Outcome	Successful
Latest Trust Code	T347

Primary Causes	No. of Claims	Damages Paid
Fail / Delay Treatment	9	1,027,033
Fail/Delay Referring To Hosp.	#	#
Bacterial Infection	#	#
Medication Errors	#	#
Fail To Supervise	#	#
Fail To Follow-Up Arrangements	#	#
Unexpected Death	#	#
Not Specified	#	#

Table 5: Analysis of Primary Causes for CNST Claims Closed (or settled with a periodical payment order) between financial years 2020/21 and 2022/23 with a damages payment, for Lewisham and Greenwich NHS Trust. The data includes the damages paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

FOI View	Closed Settled
scheme	CNST
Claim_Outcome	Successful
Latest Trust Code	T332

Primary Causes	No. of Claims	Damages Paid
Failure/Delay Diagnosis	42	1,765,755
Fail / Delay Treatment	20	2,058,480
Fail To Recog. Complication Of	14	620,782
Inadequate Nursing Care	14	360,500
Bacterial Infection	5	9,704,556
Fail Antenatal Screening	5	14,880,423
Delay In Performing Operation	5	128,270
Inappropriate Treatment	5	2,495,480
Intra-Op Problems	#	#
Fail To Make Resp To Abnrm FHR	#	#
Fail To Follow-Up Arrangements	#	#
Fail To Interpret USS	#	#
Fail To Act On Abnorm Test Res	#	#
Operator Error	#	#
Failure To Perform Tests	#	#
Fail To Supervise	#	#
Failure To Interpret X-Ray	#	#
Lack Of Assistance/Care	#	#
Wrong Diagnosis	#	#
Fail To Monitor 2nd Stg Labour	#	#
Fail To Warn-Informed Consent	#	#
Unexpected Death	#	#
Infusion Problems	#	#
Wrong Site Surgery	#	#
Fail To Carry Out PO Observs.	#	#
Inappropriate Discharge	#	#
Fail To Correctly Apply Forcep	#	#
Fail/Delay Referring To Hosp.	#	#
Diathermy Burns/react. To Prep	#	#
Birth Defects	#	#
Grand Total	155	68,201,015