NHS Resolution

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May 2024
FOI_6518

The following information was requested on 29 April 2024:

Under a Freedom of Information request, I would like to ask for the following in relation to Bradford Teaching Hospital Trust:
1. The number of claims there have been since 2018 relating to maternity & obstetrics (in total and broken down into year-by-year figures).
2. The number of claims that have been actively open paid out relating to maternity and obstetrics since 2018 (in total and broken down into year-by-year figures)
3. The total value of claim payouts since 2018 (in total and broken down into year-by-year figures).
4. A forecasted calculation of expected liabilities relating to maternity and obstetrics.

Our Response

Please find attached the requested information we are able to provide. The information for the financial year 2023/24 is currently unavailable. This information will be available on request from August 2024.

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.

We have provided data on clinical cases only.

Table 1 shows: - Number of Clinical Claims and Incidents received between financial years ‘2017/18’ and ‘2022/23’ where the Specialty is ‘**Obstetrics**’ for **Bradford Teaching Hospitals NHS Foundation Trust**.

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.

Table 2 shows: - Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2017/18 and 2022/23 with a damages payment, where the Specialty is **Obstetrics**, for **Bradford Teaching Hospitals NHS Foundation Trust**. 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.

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 Numbers

Please note 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 Freedom of Information 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.

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.

In terms of: *4. A forecasted calculation of expected liabilities relating to maternity and obstetrics.*

NHS Resolution considers that this information is exempt from disclosure under s.36 (2)(c) and s.43 (2) of Freedom of Information Act 2000 (FOIA).

In consideration of this request, NHS Resolution concludes that the disclosure of this information would prejudice the effective conduct of public affairs (s.36 (2) (c) and prejudice commercial interests (s.43 (2)). Disclosing precise values of liabilities accounted for, and the reserves against a claim would be likely to encourage claims informed by that amount rather than conventional civil liability principles.

NHS Resolution has given due consideration to the public interest test when relying on the above listed exemptions, s.36(2)(c) and s.43(2) and concludes that the factors in favour of non-disclosure outweigh the factors in favour of disclosure under the public interest test.

The values and reserves held are broad estimates. Actual experience may differ considerably from the estimates we provided for in our 2022/23 accounts, but it will be several years before we are likely to be able to confirm that.

NHS Resolution has considered all the relevant factors in favour of disclosure, including:

- The public interest in favour of disclosure inherent in FOIA.
- Transparency and accountability around NHS Resolution's potential costs.

NHS Resolution has weighed these against the factors in favour of maintaining the exemption, including:

- The strong public interest in the proper and effective discharge of NHS Resolution's statutory duties and responsibilities, which include exercising its functions in an efficient, effective and economical way;
- The public interest in the timely and cost effective resolution of complaints and claims;
- The public interest served by the information disclosed within this response;
- The public interest in the costs of any claims not being compounded by 'anchoring' claims to reserved amounts.

In light of all of the factors, NHS Resolution concludes that the public interest favours non-disclosure of the requested information.

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# 6518
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.

Table 1: Number of Clinical Claims and Incidents received between financial years ‘2017/18’ and ‘2022/23’ where the Specialty is ‘Obstetrics’ for Bradford Teaching Hospitals NHS Foundation Trust.

Table 2: Number and Cost / Damages of Clinical Claims Closed (or settled with a periodical payment order) between financial years ‘2017/18’ and ‘2022/23’ with a damages payment, where the Specialty is ‘Obstetrics’ for Bradford Teaching Hospitals NHS Foundation Trust . 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.

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Table 1: Number of Clinical Claims and Incidents received between financial years ‘2017/18’ and ‘2022/23’ where the Specialty is ‘Obstetrics’ for Bradford Teaching Hospitals NHS Foundation Trust.

FOI View	Notified

Year of Notification	No. of Claims
2017/18	13
2018/19	8
2019/20	#
2020/21	9
2021/22	11
2022/23	18

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Table 2: Number and Cost / Damages of Clinical Claims Closed (or settled with a periodical payment order) between financial years '2017/18' and '2022/23' with a damages payment, where the Specialty is 'Obstetrics' for Bradford Teaching Hospitals NHS Foundation Trust . 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
2017/18	#	#	#	#	#
2018/19	6	321,018	92,258	546,500	959,776
2019/20	6	784,010	55,163	296,432	1,135,605
2020/21	#	#	#	#	#
2021/22	7	2,152,082	122,917	422,000	2,696,999
2022/23	#	#	#	#	#
Grand Total	**28**	**12,520,110**	**577,674**	**1,964,296**	**15,062,080**