



Resolution

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June 2024
FOI_6539

The following information was requested on 14 May and clarified on 21 May 2024:

I am writing to request, under the freedom of information act, the following information.

The number of closed claims filed by (a) NHS staff and (b) NHS patients in each of the last three financial years (2019/20 – 2022/23) relating to:

- a) Faulty equipment*
- b) Infrastructure failures*

For EACH YEAR, for both (a) and (b), please also provide:

- 1. The total damages paid, NHS legal costs, and claimant legal costs*
- 2. The number of these incidents that were fatal*
- 3. For the case with the highest sum of damages paid, please provide the nature of the claim, the injury that was sustained, and the cause of the injury.*

[We replied on 20 May 2024]

Thank you for your request for information.

We are able to provide the information highlighted in yellow below. In terms of faulty equipment we have the following learning codes we are able to search for:

- Defective Equipment;*
- Defective Tools/Equipment;*
- Medical Equipment;*
- Medical/Office Equipment; Other Equipment;*
- Use of Tools/Mach/Equipment*

Please can you indicate which of the above you would like us to include in the search criteria?

However, we are unable to provide the following:

Infrastructure failure – please can you clarify what you mean by infrastructure failure? Do you have a definition?

We can provide a summary of the cause, and separately a summary of the injury, however, please can you clarify what you mean by: the nature of the claim?

*We will not hold the details of **all** incidents, but rather only the claims and incidents notified to us.*

This request will be put on hold until we receive the clarification requested above.

We look forward to hearing from you.

[You replied on 21 May 2024]

Thanks very much for your email.

For the 'faulty equipment' query, please include all of the search terms you have suggested. It would be useful if you could break the data down by these search terms.

By 'infrastructure failures', I am referring to physical issues with the infrastructure and buildings of the NHS estate. Examples include ceiling collapses, broken lifts etc. Please include any search terms relating to this.

A summary of the cause and a separate summary of the injury would be perfectly sufficient.

Our Response

Please find attached the requested information we are able to provide. This information only covers England and not the rest of the UK. We are able to provide the data on the claims and incidents notified to us. We do not hold the details of **all** incidents relating to faulty equipment or physical issues with the infrastructure and buildings of the NHS estate. Individual Trusts will hold this.

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](#)

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 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.

Please **find attached** the following tables:

Table 1 shows: – Number of LTPS Claims Closed between financial years '2019/20' and '2022/23' where the Primary Cause is 'Defective Equipment', 'Defective

Tools/Equipment', 'Medical Equipment', 'Medical/Office Equipment', 'Use of Tools/Mach/Equipment', 'Other Equipment', broken down by cause, liability type and financial year it was closed.

LTPS Scheme

NHS Resolution manages a number of risk-pooling schemes (similar to insurance) for the NHS, one of which is the Liability to Third Parties Scheme (LTPS). This covers both employers' liability (**EL**) (i.e. in relation to duties of care owed to employees) and public liability (**PL**) (i.e. in relation to duties of care owed other patients, visitors, and other members of the public). You can find out more about the LTPS scheme here: [Liabilities to Third Parties Scheme - NHS Resolution](#)

Where a cause is not shown in this table, this means that there were no claims closed during this period for that specific cause.

Table 2 shows: - Number and Cost of LTPS Claims Closed between financial years '2019/20' and '2022/23' with a damages payment, where the primary cause is 'Defective Equipment', 'Defective Tools/Equipment', 'Medical Equipment', 'Medical/Office Equipment', 'Use of Tools/Mach/Equipment', 'Other Equipment', broken down by cause, liability type and Year. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Please see the above explanation in respect of the **LTPS** Scheme and the breakdown of liability type.

Table 3 shows: - Number of LTPS Claims Closed between financial years '2019/20' and '2022/23' with **NIL** damages paid, where the Primary Cause is 'Defective Equipment', 'Defective Tools/Equipment', 'Medical Equipment', 'Medical/Office Equipment', 'Use of Tools/Mach/Equipment', 'Other Equipment', broken down by cause, liability type and Year.

Table 4 shows: - Number of LTPS Claims Closed between financial years '2019/20' and '2022/23' where the Primary Cause is 'Defective Equipment', 'Defective Tools/Equipment', 'Medical Equipment', 'Medical/Office Equipment', 'Use of Tools/Mach/Equipment', 'Other Equipment' and any injury is 'Fatality', broken down by cause, liability type and closure year.

Where a cause is not shown in this table, this means that there were no claims closed during this period for that cause where fatality was the injury.

Table 5 shows: - Number and Cost of LTPS Claims Closed between financial years '2019/20' and '2022/23' with a damages payment, where the Primary Cause is the Cause is 'Defective Equipment', 'Defective Tools/Equipment', 'Medical Equipment', 'Medical/Office Equipment', 'Use of Tools/Mach/Equipment', 'Other Equipment', and any injury is 'Fatality', broken down by cause, liability type and Year. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Where a cause is not shown in this table, this means that there were no claims closed during this period for that cause where fatality was the injury.

There were no claims closed during this period with a **nil** damages payment where the Primary Cause is the Cause is 'Defective Equipment', 'Defective Tools/Equipment', 'Medical Equipment', 'Medical/Office Equipment', 'Use of Tools/Mach/Equipment', 'Other Equipment', and any injury is 'Fatality'.

Low Numbers -

We have suppressed 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.

In terms of claims relating to: *physical issues with the infrastructure and buildings of the NHS estate. Examples include ceiling collapses, broken lifts etc.*

Although NHS Resolution may hold some information relating to claims such as what you have requested (England only claims), due to the way claims are recorded on our claims database, we will not be able to identify such specific cases. 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, we do not have a code for *building related issues such as ceiling collapses, broken lifts*. 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 *building related issues such as ceiling collapses, broken lifts*. 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 have provided the information we are readily able to extract within the 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.

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/>

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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 LTPS Claims Closed between financial years '2019/20' and '2022/23' where the Primary Cause is 'Defective Equipment', 'Defective Tools/Equipment', 'Medical Equipment', 'Medical/Office Equipment', 'Use of Tools/Mach/Equipment', 'Other Equipment', broken down by cause, liability type and financial year it was closed.

Table 2 : Number and Cost of LTPS Claims Closed between financial years '2019/20' and '2022/23' with a damages payment, where the primary cause is 'Defective Equipment', 'Defective Tools/Equipment', 'Medical Equipment', 'Medical/Office Equipment', 'Use of Tools/Mach/Equipment', 'Other Equipment', broken down by cause, liability type and Year. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Table 3 : Number of LTPS Claims Closed between financial years '2019/20' and '2022/23' with NIL damages paid, where the Primary Cause is 'Defective Equipment', 'Defective Tools/Equipment', 'Medical Equipment', 'Medical/Office Equipment', 'Use of Tools/Mach/Equipment', 'Other Equipment', broken down by cause, liability type and Year.

Table 4 : Number of LTPS Claims Closed between financial years '2019/20' and '2022/23' where the Primary Cause is 'Defective Equipment', 'Defective Tools/Equipment', 'Medical Equipment', 'Medical/Office Equipment', 'Use of Tools/Mach/Equipment', 'Other Equipment' and any injury is 'Fatality', broken down by cause, liability type and closure year.

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Table 5 : Number and Cost of LTPS Claims Closed between financial years '2019/20' and '2022/23' with a damages payment, where the Primary Cause is the Cause is 'Defective Equipment', 'Defective Tools/Equipment', 'Medical Equipment', 'Medical/Office Equipment', 'Use of Tools/Mach/Equipment', 'Other Equipment', and any injury is 'Fatality', broken down by cause, liability type and Year. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Table 1 : Number of LTPS Claims Closed between financial years '2019/20' and '2022/23' where the Primary Cause is 'Defective Equipment', 'Defective Tools/Equipment', 'Medical Equipment', 'Medical/Office Equipment', 'Use of Tools/Mach/Equipment', 'Other Equipment', broken down by cause, liability type and financial year it was closed.

FOI View	Closed Settled
Year of Closure - Primary Cause and Schedule	No. of Claims
2019/20	
Defective Tools/Equip	318
EL	224
PL	94
Use of Tools/Mach/Equip	#
EL	20
PL	#
2020/21	
Defective Tools/Equip	292
EL	188
PL	104
Use of Tools/Mach/Equip	27
EL	21
PL	6
2021/22	
Defective Tools/Equip	245
EL	177
PL	68
Use of Tools/Mach/Equip	#
EL	18
PL	#
2022/23	
Defective Tools/Equip	248
EL	174
PL	74
Use of Tools/Mach/Equip	#
EL	13
PL	#
Grand Total	1,191

Table 2 : Number and Cost of LTPS Claims Closed between financial years '2019/20' and '2022/23' with a damages payment, where the primary cause is 'Defective Equipment', 'Defective Tools/Equipment', 'Medical Equipment', 'Medical/Office Equipment', 'Use of Tools/Mach/Equipment', 'Other Equipment', broken down by cause, liability type and Year. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

FOI View	Closed Settled
Claim_Outcome	Damages Paid

Year of Closure	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
- Primary Cause and Schedule					
2019/20					
Defective Tools/Equip	163	2,735,907	332,087	1,387,975	4,455,969
EL	114	2,018,891	245,261	1,017,952	3,282,104
PL	49	717,016	86,826	370,023	1,173,865
Use of Tools/Mach/Equip	#	#	#	#	#
EL	12	940,940	135,075	297,129	1,373,143
PL	#	#	#	#	#
2020/21					
Defective Tools/Equip	149	1,873,211	306,649	1,399,122	3,578,982
EL	104	1,272,780	200,945	979,702	2,453,427
PL	45	600,431	105,704	419,420	1,125,555
Use of Tools/Mach/Equip	#	#	#	#	#
EL	10	67,508	11,993	77,856	157,356
PL	#	#	#	#	#
2021/22					
Defective Tools/Equip	118	3,856,335	509,768	2,312,721	6,678,824
EL	85	900,030	159,752	730,654	1,790,436
PL	33	2,956,305	350,016	1,582,067	4,888,388
Use of Tools/Mach/Equip	#	#	#	#	#
EL	8	283,951	23,012	165,169	472,131
PL	#	#	#	#	#
2022/23					
Defective Tools/Equip	108	1,898,530	397,745	1,443,756	3,740,031
EL	83	1,162,864	347,902	1,096,937	2,607,703
PL	25	735,666	49,843	346,819	1,132,328
Use of Tools/Mach/Equip	5	75,880	11,312	19,384	106,576
EL	#	#	#	#	#
PL	#	#	#	#	#
Grand Total	582	11,857,262	1,755,507	7,141,256	20,754,025

Table 3 : Number of LTPS Claims Closed between financial years '2019/20' and '2022/23' with NIL damages paid, where the Primary Cause is 'Defective Equipment', 'Defective Tools/Equipment', 'Medical Equipment', 'Medical/Office Equipment', 'Use of Tools/Mach/Equipment', 'Other Equipment', broken down by cause, liability type and Year.

FOI View	Closed Settled
Claim_Outcome	NIL Damages

Year of Closure -- Primary Cause and Schedule	No. of Claims
2019/20	
Defective Tools/Equip	155
EL	110
PL	45
Use of Tools/Mach/Equip	#
EL	8
PL	#
2020/21	
Defective Tools/Equip	143
EL	84
PL	59
Use of Tools/Mach/Equip	#
EL	11
PL	#
2021/22	
Defective Tools/Equip	127
EL	92
PL	35
Use of Tools/Mach/Equip	10
EL	10
2022/23	
Defective Tools/Equip	140
EL	91
PL	49
Use of Tools/Mach/Equip	#
EL	10
PL	#
Grand Total	609

Table 4 : Number of LTPS Claims Closed between financial years '2019/20' and '2022/23' where the Primary Cause is 'Defective Equipment', 'Defective Tools/Equipment', 'Medical Equipment', 'Medical/Office Equipment', 'Use of Tools/Mach/Equipment', 'Other Equipment' and any injury is 'Fatality', broken down by cause, liability type and closure year.

FOI View	Closed Settled
Injury	Fatality

Year of Closure -- Primary Cause and Schedule	No. of Claims
2021/22	#
Defective Tools/Equip	#
PL	#
2022/23	#
Defective Tools/Equip	#
PL	#
Grand Total	#

Table 5 : Number and Cost of LTPS Claims Closed between financial years '2019/20' and '2022/23' with a damages payment, where the Primary Cause is the Cause is 'Defective Equipment', 'Defective Tools/Equipment', 'Medical Equipment', 'Medical/Office Equipment', 'Use of Tools/Mach/Equipment', 'Other Equipment', and any injury is 'Fatality', broken down by cause, liability type and Year. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

FOI View	Closed Settled
Claim_Outcome	Damages Paid
Injury	Fatality

Year of Closure -- Primary Cause and Schedule	No. of Claims	Damage s Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2021/22	#	#	#	#	#
Defective Tools/Equip	#	#	#	#	#
PL	#	#	#	#	#
2022/23	#	#	#	#	#
Defective Tools/Equip	#	#	#	#	#
PL	#	#	#	#	#
Grand Total	#	#	#	#	#