8th Floor,
10 South Colonnade
Canary Wharf
London
E14 4PU
Telephone: 020 7811 2700

June 2024
FOI_6563

The following information was requested on 28 May 2024:

FREEDOM OF INFORMATION ACT REQUEST

*1. How many clinical negligence claims involving **amputation** were paid out by the NHSLA in the year 2022/23 what was the monetary value of payments made against those claims, irrespective of when the claim was made? For each amputation, please list the body part or limb involved. Please give the three NHS Trusts against whom the most successful claims were paid out in 2022/23 and how many claims related to each of those trusts.*
*2. How many clinical negligence claims involving **blindness** were paid out by the NHSLA in the year 2022/23 and what was the monetary value of payments made against those claims, irrespective of when the claim was made? Please give the three NHS Trusts against whom the most successful claims were paid out in 2022/23 and how many claims related to each of those trusts.*
*3. How many clinical negligence claims involving **cosmetic disfigurement** were paid out by the NHSLA in the year 2022/23, what was the monetary value of payments made against those claims, irrespective of when the claim was made? Please give the three NHS Trusts against whom the most successful claims were paid out in 2022/23 and how many claims related to each of those trusts.*

Our Response

Please find attached the requested information. This information only covers England and not the rest of the UK.

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.

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.

Some of the claims notified will have been repudiated and settled without damages paid.

We note that this request is very similar to:
FOI_6006_Amputation_Blindness_Cosmetic-disfigurement.pdf (resolution.nhs.uk). The data shows variation in numbers of cases closed per year and costs attributed to those claims. The individual nature of claims received by NHS Resolution means they can vary significantly in value and any such fluctuations cannot be interpreted as trends.

Table 1 shows – Number and Cost of Clinical Claims closed (or settled with a periodical payment order) in the financial year 2022/23 with a damages payment, where the Primary Injury is '**Amputation - Upper'** or **'Amputation - Lower'**. 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.

We can identify whether it is upper or lower body amputation, and this is shown in table 1 attached. However, we are unable to provide specific details about the body part amputated.

Although NHS Resolution may hold some information on claims files, which identifies the body part (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 codes for the information you have requested e.g. specifically for the list of the body part or limb involved. Therefore, identifying the relevant body part would involve a manual review of all amputation cases.

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 already spent approximately 18 hrs extracting, and collating the information we are able to provide which is attached.

Table 2 shows – Number and Cost of Clinical Claims for the members with the most number of clinical claims closed (or settled with a periodical payment order) in the financial year 2022/23 with a damages payment, where the primary injury is **'Amputation - Upper'** or **'Amputation - Lower'**. Broken down by member with 5 or more claims. 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.

Please note Claims recorded against the Department of Health and Social Care (showing as Department of Health) are either: liabilities arising from defunct NHS organisations, which transferred to the Secretary of State for Health and Social Care when those organisations were abolished; or are NHS clinical negligence claims made against current and former GP members of medical defence organisations (currently MDDUS and MPS only) in respect of liabilities incurred before 1 April 2019. These are managed under ELSGP. Please see our website for details (Existing Liabilities Scheme for General Practice - NHS Resolution).

Table 3 shows – Number and Cost of Clinical Claims Closed in the financial year 2022/23 with a damages payment, where the Primary Injury is '**Blindness**'. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Table 4 shows – Number and Cost of Clinical Claims for the member with the most number of clinical claims closed in the financial year 2022/23 with a damages payment, where the primary injury is '**Blindness**'. Broken down by member with 5 or more claims. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Table 5 shows – Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) in the financial year 2022/23 with a damages payment, where the Primary Injury is **'Cosmetic disfigurement'** broken down by Primary Injury. 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.

We have not provided a table broken down by Trust for claims where the primary injury is **'Cosmetic Disfigurement'** and a damages payment was made, as there are no Trusts with **5** or claims for this time period. Please refer to the “Refusal of low numbers and breakdown by Trust for members with fewer than 5 claims” below for further explanation.

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.

Refusal of low numbers and breakdown by Trust for members with fewer than 5 claims -

We have provided you with the names of the Members that had 5 or more claims during this period where it is the highest number of claims for each Injury.

We are unable to provide information about individual claims or information regarding the NHS Trusts (with fewer than 5 claims) against whom the most number of claims were paid out as we believe that disclosure of information with this level of granularity is exempt under Section 40(2) by virtue of section 40(3A) (i) 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 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 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# 6563
Data correct as at: The end of every financial year

TABLE OF CONTENTS

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# 6563
Data correct as at: The end of every financial year

Table 1: Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) in the financial year 2022/23 with a damages payment, where the Primary Injury is 'Amputation - Upper' or 'Amputation - Lower'. 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
Clinical	Clinical
Claim_Outcome	Successful
Amputation	Y

Primary Injury	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Amputation - Lower	151	85,450,677	5,552,328	16,722,515	107,725,520
Amputation - Upper	21	24,248,383	914,270	3,182,500	28,345,153
Grand Total	**172**	**109,699,061**	**6,466,597**	**19,905,015**	**136,070,673**

Freedom of Information Request# 6563
Data correct as at: The end of every financial year

NHS Resolution

Table 2: Number and Cost of Clinical Claims for the members with the most number of clinical claims closed (or settled with a periodical payment order) in the financial year 2022/23 with a damages payment, where the primary injury is 'Amputation - Upper' or 'Amputation - Lower'. Broken down by member with 5 or more claims. 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
Clinical	Clinical
Claim_Outcome	Successful
Amputation	Y

Primary Injury --Trust ----Scheme	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Amputation - Lower					
Department of Health					
ELSGP	42	5,964,399	839,262	2,748,845	9,552,506
NHS Commissioning Board	5	164,706	27,951	205,750	398,407
Grand Total	**47**	**6,129,105**	**867,213**	**2,954,595**	**9,950,913**

Freedom of Information Request# 6563
Data correct as at: The end of every financial

Table 3: Number and Cost of Clinical Claims Closed in the financial year 2022/23 with a damages payment, where the Primary Injury is 'Blindness'. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

FOI View	Closed Settled
Clinical	Clinical
Claim_Outcome	Successful

Primary Injury	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Blindness	82	12,001,740	1,338,134	4,929,226	18,269,100
Grand Total	**82**	**12,001,740**	**1,338,134**	**4,929,226**	**18,269,100**

Freedom of Information Request# 6563
Data correct as at: The end of every financial year

Table 4: Number and Cost of Clinical Claims for the member with the most number of clinical claims closed in the financial year 2022/23 with a damages payment, where the primary injury is 'Blindness'. Broken down by member with 5 or more claims. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

FOI View	Closed Settled
Clinical	Clinical
Claim_Outcome	Successful
Injury1L1	Blindness

Primary Injury --Trust ----Scheme	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Department of Health					
ELSGP	9	2,070,620	235,547	680,950	2,987,117
Grand Total	**9**	**2,070,620**	**235,547**	**680,950**	**2,987,117**

Freedom of Information Request# 6563
Data correct as at: The end of every financial year

Table 5: Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) in the financial year 2022/23 with a damages payment, where the Primary Injury is 'Cosmetic disfigurement' broken down by Primary Injury. 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
Clinical	Clinical
Claim_Outcome	Successful

Primary Injury	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Cosmetic Disfigurement	18	2,751,418	282,234	1,027,563	4,061,214
Grand Total	**18**	**2,751,418**	**282,234**	**1,027,563**	**4,061,214**