



Resolution

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June 2024

FOI_6573

The following information was requested on 28 May 2024:

- 1. The number of clinical negligence claims were made by people in prison (i.e. people held in prison at the time of the alleged negligence), where damages were paid out for the financial years 2018/19, 2019/20, 2020/21, 2021/22, 22/23? Please provide the information broken down by financial year.*
- 2. The total amount of damages paid in relation to these claims? Please break this down into general damages, special damages and legal costs for each of the financial years in 1 above.*
- 3. For the financial years stated in 1 above, please provide a breakdown of the primary cause of damages, where a claim has been made where a payment(s) was/were made using the cause codes used in the NHS Resolution's electronic case management system as set out in the 'Speciality-injury-and-cause-codes.xlsx' spreadsheet).*
- 4. For the financial years listed in 1 above please confirm which ten NHS Trusts have had the most number of claims made against them by people held in prison (at the time of the alleged negligence), where a payment of damages 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 and costs paid out in those claims.*

Our Response

Thank you for your request for information. Please note we do **not** cover primary dental care. Please find attached the information we are able to provide within the FOI limit. Our claims data only covers England and not the UK.

We have based our search on the specialty: HM Prison Medical/Dental.

However, there may be other claims that have been made by patients in prison that have been categorised in a different way. Unfortunately, the only way to extract this information would be to manually review individual claims file. This exercise would likely exceed the FOI cost limit.

Therefore, we estimate that the cost of complying with the request in its entirety would exceed the 'appropriate limit'. Section 12(1) of the Freedom of Information Act 2000 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 that is readily available.

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>.

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.

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 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 between financial years 2018/19 and 2022/23 with a damages payment, where the Specialty is 'HM Prison Medical/Dental'. Broken down by Financial Year. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Table 2 shows: - Number and Damages of Clinical Claims Closed between financial years 2018/19 and 2022/23 with a damages payment, where the Specialty is 'HM Prison Medical/Dental'. Broken down by Primary Cause. The data includes the damages paid up until the end of each relevant financial year of closure.

Table 3 shows: - Top 10 NHS Trusts by number of Clinical Claims Closed between financial years 2018/19 and 2022/23 with a damages payment, where the Specialty is 'HM Prison Medical/Dental'. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Please note: these tables should not be interpreted as a league table. Larger member organisations and those which provide more complex treatments may receive more claims than smaller organisations or those providing low risk care. Inevitably, different institutions face different levels of risk because of the variations in the nature and complexity of their operations..

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. 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.

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 and Cost of Clinical Claims Closed between financial years 2018/19 and 2022/23 with a damages payment, where the Specialty is 'HM Prison Medical/Dental'. Broken down by Financial Year. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Table 2: Number and Damages of Clinical Claims Closed between financial years 2018/19 and 2022/23 with a damages payment, where the Specialty is 'HM Prison Medical/Dental'. Broken down by Primary Cause. The data includes the damages paid up until the end of each relevant financial year of closure.

Table 3: Top 10 NHS Trusts with the Most Clinical Claims Closed between financial years 2018/19 and 2022/23 with a damages payment, where the Specialty is 'HM Prison Medical/Dental'. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Table 1: Number and Cost of Clinical Claims Closed between financial years 2018/19 and 2022/23 with a damages payment, where the Specialty is 'HM Prison Medical/Dental'. Broken down by Financial 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

Year of Closure	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2018/19	45	576,477	159,230	422,767	1,158,474
2019/20	43	391,569	219,480	684,293	1,295,341
2020/21	42	1,219,866	290,831	1,283,416	2,794,113
2021/22	35	2,565,338	541,350	1,560,342	4,667,030
2022/23	36	1,298,710	535,506	1,731,851	3,566,066
Grand Total	201	6,051,960	1,746,396	5,682,669	13,481,024

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FOI View Closed Settled

Year of Closure ----- Primary Causes	No. of Claims	Damages Paid
Fail / Delay Treatment	94	2,663,023
Medication Errors	21	134,514
Self Harm	17	2,134,336
Fail/Delay Referring To Hosp.	14	483,637
Failure/Delay Diagnosis	12	226,572
Equipment Malfunction	7	26,000
Unexpected Death	5	120,000
Fail To Follow-Up Arrangements	5	32,066
Inappropriate Treatment	#	#
Failure To X-Ray	#	#
Inadequate Nursing Care	#	#
Lack Of Assistance/Care	#	#
Bacterial Infection	#	#
Sexual Abuse	#	#
Fail To Supervise	#	#
Wrong Diagnosis	#	#
Fail To Infrm Test Rslts	#	#
Other	#	#
Lack Of Facilities/Equipment	#	#
Fail To Act On Abnorm Test Res	#	#
Failure To Perform Tests	#	#
Fail/Delay Admitting To Hosp.	#	#
Grand Total	201	6,051,960

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FOI View
Claim_Outcome

Closed Settled
Successful

Year of Closure ----- Member Name	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Nottinghamshire Healthcare NHS Foundation Trust	66	2,149,110	674,773	2,037,548	4,861,432
Oxleas NHS Foundation Trust	12	73,765	91,411	271,955	437,131
Northamptonshire Healthcare NHS Foundation Trust	11	88,753	37,990	239,469	366,212
Greater Manchester Mental Health NHS Foundation Trust	11	28,500	28,891	77,580	134,971
Central and North West London NHS Foundation Trust	11	152,850	73,771	561,900	788,521
Lancashire and South Cumbria NHS Foundation Trust	11	150,062	55,998	300,584	506,644
Herefordshire and Worcestershire Health and Care NHS Trust	8	24,410	60,857	109,933	195,201
Leicestershire Partnership NHS Trust	6	114,550	87,800	163,250	365,600
Sussex Partnership NHS Foundation Trust	6	104,464	43,659	209,060	357,183
Essex Partnership University NHS Foundation Trust	6	104,853	153,771	276,500	535,124