



Resolution

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August 2024
FOI_6657

The following information was requested on 15 July 2024:

We wish to make a request in accordance with the Freedom of Information Act 2000 and write further the information detailed in the response [FOI 6472](#).

We would be grateful for clarification of the following:

- 1. Please confirm if the litigation rates detailed include cases where Part 8 proceedings have been issued in relation to costs only. If the data set does include those cases, can the case numbers provided please be separated out by Part 8/ non Part 8 (by value band).*
- 2. Please confirm whether the data set provided includes cases where Letters of Notification have been received or whether it solely relates to cases where Letters of Claim have been received.*

Our Response to your specific request

Although NHS Resolution may hold some information relating to claims such as these, 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](#). We do not have a code for where Part 8 proceedings have been issued in relation to costs only or for an infant approval hearing. 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 cases where *Part 8 proceedings have been issued*. NHS Resolution receives thousands of claims each year.

In response to: *Please confirm whether the data set provided includes cases where Letters of Notification have been received or whether it solely relates to cases where Letters of Claim have been received.*

It is possible that the claims captured in the response to [FOI 6472](#) do have either a letter of notification or a letter of claim (also possible a claim could have both). We do, where appropriate, treat a Letter of Notification as a claim for compensation and proceed on the same basis as if it were a formal Letter of Claim. However, without

interrogating each individual claim we cannot provide you with a definitive answer. To provide you with a definitive answer would require us to manually review over 1000 claims. We believe 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 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 estimate that it would take on average 10 minutes to locate, retrieve and extract the requested information from an individual file. It may therefore be the case that we would be able to examine only 108 files within 18 hours.

In addition, given the complexity of clinical negligence claims and their litigation, it is possible for a single electronic or paper-based file to contain hundreds of documents in a variety of formats.

Please also note even if we were able to carry out a review of 108 random files, we may not be able to provide you with the level of detail you require owing to Data Protection grounds.

We would need to suppress low numbers or any information that could possibly lead to the identification of claimants, patients or individuals where disclosure would breach the General Data Protection Regulation.

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

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