NHS Resolution

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September 2024
FOI_6711

The following information was requested on 21 August 2024:

1. In the 2023-2024 financial year please state which ten legal firms received the most money from the NHSLA in relation to claimant costs for the clinical negligence scheme (CNST)? For each of the ten firms please state how much money they received in relation to claimant costs for the clinical negligence scheme (CNST) in the financial year? For each firm also please state how many claims this represents, and the damages that were paid in these cases.

2. In total how much money was paid in legal costs in 2023/24 and how this was divided between NHSLA legal costs and claimants' legal costs? How does this total figure compare with previous years' figures?

3. What was the biggest settlement to a legal firm in respect of claimant's legal costs for a single case that was settled in 2023/24? For that case, please state the amount of damages paid, the claimant's costs and the name of the legal firm in question and the NHSLA 'S legal costs associated with the case. Please state if the case was settled following a court hearing or not and what the injury was that the patient suffered from.

4. In relation to only those cases that were settled in the 2023/24 financial year and the claimant damages paid were in excess of £100,000, which single case saw the biggest claimant's legal costs as a multiple of the claimant's damages? For that case, please state the amount of damages paid, the claimant's costs and the name of the legal firm in question and the NHSLA 'S legal costs associated with the case.

5. In relation to only those cases that were settled in the 2023/24 financial year and the claimant damages paid were in excess of £1,000, which single case saw the biggest claimant's legal costs as a multiple of the claimant's damages? For that case, please state the amount of damages paid, the claimant's costs and the name of the legal firm in question and the NHSLA 'S legal costs associated with the case.

***Note**: In relation to Q.4 and Q.5 I am after the biggest multiple. So costs of £600,000 on a case settled for £150,000 damages would be x4, and bigger than costs of £2m in a case settled for £1m which would be x2. Also note I have dropped a request for the nature of the injury so as not to fall within the scope of S.40.*

Our Response

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.

Please find attached the following tables:

Q1 - Table 1 shows: Top ten legal firms that received the most money in relation to claimant costs for the clinical negligence scheme (CNST) for claims closed (or PPOs settled) in financial year 2023/24 (including damages paid up to the end of the settlement year in the case of PPOs and up to the end of the closure year in non-PPO cases).

Claimant costs will include disbursements such as expert and counsel fees as well as court costs.

Q2 - Table 2 shows: The amount paid in legal costs (NHS Legal Costs and Claimant Legal Costs) for CNST claims closed (or PPOs settled) in 2022/23 – 2023/24.

This table shows the legal costs for all CNST claims closed (or settled as a PPO) during this period. It will therefore include some claims that did **not** have any claimant costs.

Q3 – Table 3 shows: The claimant solicitor firm with the highest claimant costs paid for a CNST claim closed in financial year 2023/24 (excludes claims settled on a periodical payment order basis)

Q4 – Table 4 shows: The largest multiple of claimant costs to damages for CNST claim closed in financial year 2023/24 (excludes the costs paid to date for any claims settled on a periodical payment order basis) where damages payments >£100,000

Q5 – Table 5 shows: The largest multiple of claimant costs to damages paid for CNST claim closed in financial year 2023/24 (excludes claims settled on a periodical payment order basis) where damages payments >£1000.

Q3 – Q5 - We have provided you with a data range as we believe that disclosure of the information requested 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.

Please note the data provided is along the same lines as the data provided in response to: FOI_6155_Top-10-legal-firms-with-most-claimant-costs.pdf (resolution.nhs.uk) & FOI_5519_Top-10-legal-firms-with-most-claimant-costs.doc.pdf (resolution.nhs.uk). It is our view that to provide you with the precise information for individual claims or a description of the injury suffered for individual claims would be a breach of the Data Protection requirements.

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.

Please also note that the data shows variation in damages and costs paid. This is a reflection of the nature of individual claims received by NHS Resolution, which can vary significantly. As such, year on year fluctuations cannot necessarily be interpreted as trends.

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.

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 several 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/

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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.

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Table 1: Top ten legal firms that received the most money in relation to claimant costs for the clinical negligence scheme (CNST) for claims closed (or PPOs settled) in financial year 2023/24 (including damages paid up to the end of the settlement year in the case of PPOs and up to the end of the closure year in non-PPO cases).

ClosedSettled	Y
scheme	CNST
Claimant Costs Paid	(Multiple Items)
Closed/PPO_Settled_Year	2023/24

Claimant Solicitor Firm ---Claim Outcome	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid
Irwin Mitchell				
Damages Paid	522	293,567,288	16,036,944	57,283,639
Nil Damages	#	#	#	#
Fletchers				
Damages Paid	597	29,614,153	4,155,748	21,776,772
Slater & Gordon				
Damages Paid	204	60,690,475	4,568,422	16,407,315
Nil Damages	#	#	#	#
Stewarts Law				
Damages Paid	35	36,302,874	2,551,591	10,002,625
Nil Damages	#	#	#	#
Shoosmiths				
Damages Paid	114	18,538,651	2,080,207	9,667,010
JMW				
Damages Paid	90	49,813,454	3,108,262	9,428,281
Nil Damages	#	#	#	#
Leigh Day				
Damages Paid	56	41,198,082	2,185,910	8,979,161
Nil Damages	#	#	#	#
Thompsons				
Damages Paid	136	10,644,719	1,893,703	9,049,327
Enable Law				
Damages Paid	79	35,074,577	2,503,393	8,224,832
Penningtons Manches				
Damages Paid	61	26,167,229	2,162,365	8,094,818
Grand Total	**1,904**	**601,611,502**	**41,652,097**	**159,299,305**

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Table 2: The amount paid in legal costs (NHS Legal Costs and Claimant Legal Costs) for CNST claims closed (or PPOs settled) in 2022/23 and 2023/24.

ClosedSettled	Y
scheme	CNST
Claim_Outcome	(All)

Year of Closure (Settlement Year for PPOs)	No. of Claims	NHS Legal Costs Paid	Claimant Legal Costs Paid
2022/23	11,166	142,256,288	439,510,798
2023/24	10,765	138,125,812	446,532,595
Grand Total	**21,931**	**280,382,100**	**886,043,393**

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Table 3: The claimant solicitor firm with the highest claimant costs paid for a CNST claim closed in financial year 2023/24 (excludes claims settled on a periodical payment order basis)

Year of Closure ---Claimant Solicitor	Damages Paid	NHS Legal Costs Paid	Claimant Costs Paid	Went to Trial
2022/23				
Field Fisher Waterhouse	3,500,000 - 4,500,000	100,000 - 200,000	1,000,000 - 1,500,000	No

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Table 4: The largest multiple of claimant costs to damages for CNST claim closed in financial year 2023/24 (excludes the costs paid to date for any claims settled on a periodical payment order basis) where damages payments >£100,000.

Year of Closure ---Claimant Solicitor	Damages Paid	NHS Legal Costs Paid	Claimant Costs Paid	Went To Trial
2023/24				
Leigh Day	100,000-150,000	50,000-100,000	300,000-400,000	No

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Table 5: The largest multiple of claimant costs to damages paid for CNST claim closed in financial year 2023/24 (excludes claims settled on a periodical payment order basis) where damages payments >£1000.

Year of Closure ---Claimant Solicitor	Damages Paid	NHS Legal Costs Paid	Claimant Costs Paid	Went To Trial
2023/24				
Clear Law	1,000 - 2,000	1,000 - 5,000	50,000 - 100,000	No