NHS
Resolution

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September 2024
FOI_6724

The following information was requested on 1 September 2024:

I would be grateful if you are able to provide any information you hold on cases that have had claims/litigation/payouts with regard to neurosurgical and/or spinal procedures or those involving neurosurgeons for the last 10 years or however far information is available.

I would be grateful to know the number of cases, values of cases or any other data held regarding those cases.

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.

In terms of the claims data that we hold, although NHS Resolution may hold some of this information, 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 specifically relating to the role of the clinician. We also do not have a code for spinal procedures. Therefore, while there may be information held in our records, we are not readily able to identify the breakdown by searching the database. To do so would require a review of individual claims to identify the role of the clinicians involved and/or whether a spinal procedure was involved. This would entail manually reviewing thousands of claims.

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 we are able to provide within the FOI cost limit.

We are able to provide high level claims data relating to the specialty: '**Neurosurgery**'.

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.

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.

Table 1 shows: - Number of Clinical Claims and Incidents received between financial years '2014/15' and '2023/24' where the Specialty is '**Neurosurgery**'.

Table 2 shows: - Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) between financial years '2014/15' and '2023/24' with a damages payment, where the Specialty is '**Neurosurgery**'. 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.

Table 3 shows: - Number and Cost of Clinical Claims Closed between financial years '2014/15' and '2023/24' with **NIL** damages paid where the Specialty is '**Neurosurgery**'.

Table 4 shows: - Analysis of Primary Injuries for Clinical Claims Closed (or settled with a periodical payment order) between financial years '2014/15' and '2023/24 with a damages payment where the Specialty is '**Neurosurgery'**. 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.

Table 5 shows: - Analysis of Primary Causes for Clinical Claims Closed (or settled with a periodical payment order) between financial years '2014/15' and '2023/24 with a damages payment where the Specialty is '**Neurosurgery**'. 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.

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.

Low figures

We have not provided the information for low figures involved, 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.

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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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: Number of Clinical Claims and Incidents received between financial years '2014/15' and '2023/24' where the Specialty is 'Neurosurgery'.

Notified	Y

Year of Notification	No. of Claims
2014/15	171
2015/16	167
2016/17	166
2017/18	150
2018/19	195
2019/20	189
2020/21	207
2021/22	158
2022/23	178
2023/24	157
Grand Total	**1,738**

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Table 2: Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) between financial years '2014/15' and '2023/24' with a damages payment, where the Specialty is 'Neurosurgery'. 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.

ClosedSettled	Y
Claim_Outcome	Damages Paid

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs	Total Paid
2014/15	52	11,179,727	1,332,757	4,966,676	17,479,160
2015/16	71	25,471,191	2,151,711	7,236,893	34,859,795
2016/17	77	23,364,797	2,241,212	9,015,213	34,621,222
2017/18	109	44,868,338	3,174,142	14,247,108	62,289,588
2018/19	89	28,763,751	3,090,185	10,586,827	42,440,763
2019/20	97	40,983,652	3,487,382	12,025,161	56,496,195
2020/21	107	30,142,735	3,229,528	10,350,156	43,722,419
2021/22	111	53,159,381	4,709,593	14,816,762	72,685,736
2022/23	95	54,524,269	3,941,141	12,628,259	71,093,669
2023/24	91	26,402,651	2,873,375	8,700,389	37,976,415
Grand Total	**899**	**338,860,492**	**30,231,024**	**104,573,444**	**473,664,961**

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Table 3: Number and Cost of Clinical Claims Closed between financial years '2014/15' and '2023/24' with NIL damages paid where the Specialty is 'Neurosurgery'.

ClosedSettled	Y
Claim_Outcome	Nil Damages

Year of Closure	No. of Claims	NHS Legal Costs Paid	Claimant Legal Costs Paid
2014/15	89	301,310	0
2015/16	75	270,765	0
2016/17	91	719,509	0
2017/18	79	464,771	#
2018/19	74	632,621	#
2019/20	65	418,251	#
2020/21	72	733,026	20,000
2021/22	87	1,240,446	#
2022/23	91	794,363	0
2023/24	66	952,968	42,030
Grand Total	**789**	**6,528,029**	**71,952**

Table 4: Analysis of Primary Injuries for Clinical Claims Closed (or settled with a periodical payment order) between financial years '2014/15' and '2023/24 with a damages payment where the Specialty is 'Neurosurgery'. 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.

ClosedSettled	Y
Claim_Outcome	Damages Paid

Primary Injury	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Nerve Damage	122	42,914,075	5,762,922	19,485,562	68,162,559
Adtnl/unnecessary Operation(s)	89	12,515,098	1,667,788	5,599,475	19,782,362
Unnecessary Pain	88	5,885,768	864,205	3,169,944	9,919,917
Brain Damage	84	97,963,185	6,508,606	17,203,943	121,675,735
Fatality	80	6,948,768	1,021,872	4,511,713	12,482,353
Spinal Damage	72	40,102,024	3,507,797	12,072,981	55,682,803
Paraplegia	37	34,538,576	2,400,043	8,816,172	45,754,792
Pressure Sores	35	2,069,910	343,117	1,519,535	3,932,562
Partial Paralysis	26	11,921,772	1,218,846	3,984,538	17,125,156
Bowel Damage/ Dysfunction	21	6,779,680	873,217	3,276,174	10,929,071
Fracture	19	584,497	97,763	652,600	1,334,860
Blindness	17	8,346,744	621,431	1,810,810	10,778,984
Psychiatric/Psychological Dmge	16	487,315	98,523	593,871	1,179,709
Tetraplegia/ Quadriplegia	14	15,854,850	249,108	4,003,152	20,107,110
Other Infection	13	785,863	156,341	566,587	1,508,791
Foot Drop	11	2,023,881	294,474	959,000	3,277,355
Stroke	11	4,445,651	242,266	1,047,978	5,735,895
Multiple Disabilities	11	4,491,117	460,506	1,852,218	6,803,841
Bladder Damage	11	2,574,313	415,242	1,431,500	4,421,056
Poor Outcome - Fractures Etc.	10	992,010	172,670	575,257	1,739,937
Other Visual Problems	8	3,389,188	212,567	1,106,014	4,707,769
Other	7	2,907,631	242,985	838,850	3,989,466
Hospital Acquired Infection	6	1,276,132	267,969	898,900	2,443,001
Multiple Injuries	5	1,953,120	266,156	312,753	2,532,030
Thrombosis/Embolism	5	119,549	22,010	120,139	261,698
Aneurysm	5	87,350	32,960	151,310	271,620
Respiratory Disorder/ Failure	5	666,018	101,009	395,000	1,162,027
Scarring	#	#	#	#	#
Epilepsy	#	#	#	#	#
Scalp Damage	#	#	#	#	#
Incontinence	#	#	#	#	#
Cardiac Arrest	#	#	#	#	#
Burn(s)	#	#	#	#	#
Tetraplegia/ Quadraplegia	#	#	#	#	#
Sexual Abuse	#	#	#	#	#
Cancer	#	#	#	#	#
Vocal Cord Damage	#	#	#	#	#
Hemiparesis	#	#	#	#	#
Tissue Damage	#	#	#	#	#
Renal Damage/ Failure	#	#	#	#	#
Fistula	#	#	#	#	#
Advanced Stage Cancer	#	#	#	#	#
Infection (bacterial)	#	#	#	#	#
Bruising/ Extravasation	#	#	#	#	#
Amputation - Lower	#	#	#	#	#
Not Specified	#	#	#	#	#
Cosmetic Disfigurement	#	#	#	#	#
Compartment Syndrome	#	#	#	#	#
Removal Of Fallopian Tube	#	#	#	#	#
Dental Damage	#	#	#	#	#
Reduced Life Expectancy	#	#	#	#	#
Deafness	#	#	#	#	#
Malignant Tumour	#	#	#	#	#
Tardive Dyskinesia	#	#	#	#	#
Arterial Damage	#	#	#	#	#
Developmental Delay	#	#	#	#	#

Table 4: Analysis of Primary Injuries for Clinical Claims Closed (or settled with a periodical payment order) between financial years '2014/15' and '2023/24 with a damages payment where the Specialty is 'Neurosurgery'. 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.

ClosedSettled	Y
Claim_Outcome	Damages Paid

Primary Injury	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Decompression Illness	#	#	#	#	#
Wrongful Birth	#	#	#	#	#
Amputation - Upper	#	#	#	#	#
Perforation	#	#	#	#	#
Joint Damage	#	#	#	#	#
Infectious Diseases	#	#	#	#	#
Grand Total	**899**	**338,860,492**	**30,231,024**	**104,573,444**	**473,664,961**

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Table 5: Analysis of Primary Causes for Clinical Claims Closed (or settled with a periodical payment order) between financial years '2014/15' and '2023/24 with a damages payment where the Specialty is 'Neurosurgery'. 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.

ClosedSettled	Y
Claim_Outcome	Damages Paid

Primary Cause	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Fail / Delay Treatment	198	73,030,049	6,399,999	24,261,881	103,691,929
Failure/Delay Diagnosis	124	48,242,626	4,365,054	16,214,697	68,822,378
Intra-Op Problems	69	39,234,031	3,500,206	10,773,981	53,508,218
Inappropriate Treatment	66	26,849,758	1,977,006	7,542,437	36,369,202
Inadequate Nursing Care	54	4,421,316	801,004	2,774,020	7,996,341
Fail To Warn-Informed Consent	48	25,192,389	2,400,191	7,112,220	34,704,800
Delay In Performing Operation	42	20,640,267	1,744,213	5,773,347	28,157,828
Operator Error	41	16,908,629	1,353,687	4,427,126	22,689,442
Wrong Site Surgery	25	2,287,373	287,605	1,123,428	3,698,405
Fail To Recog. Complication Of	23	12,495,328	1,301,527	3,732,415	17,529,270
Medication Errors	23	8,322,353	714,750	2,185,597	11,222,699
Fail To Follow-Up Arrangements	13	5,144,917	336,393	951,481	6,432,791
Failure To Interpret X-Ray	12	5,409,305	363,718	1,628,001	7,401,024
Failure To Perform Tests	12	4,198,905	352,572	1,526,598	6,078,075
Foreign Body Left In Situ	11	679,800	102,461	349,327	1,131,588
Fail To Supervise	10	204,066	103,719	350,150	657,935
Lack Of Assistance/Care	10	1,265,165	143,940	488,535	1,897,640
Inadequate Monitoring Intra-Op	9	9,936,253	505,993	1,480,616	11,922,863
Equipment Malfunction	9	1,990,335	172,383	442,681	2,605,398
Fail/Delay Admitting To Hosp.	9	1,090,592	216,831	911,820	2,219,243
Failure To Perform Operation	8	2,008,725	284,875	1,186,093	3,479,693
Wrong Diagnosis	8	1,056,785	141,981	595,800	1,794,566
Err With Agnt/Dose/Route/Selec	8	1,097,367	211,117	738,800	2,047,284
Fail To Act On Abnorm Test Res	7	7,851,044	510,254	1,736,625	10,097,923
Bacterial Infection	5	357,780	159,120	258,118	775,018
Perform. Of Op. Not Indicated	5	4,066,226	295,529	972,500	5,334,255
Lack Of Pre-Op Evaluation	5	262,333	33,166	205,000	500,498
Fail/Delay Referring To Hosp.	#	#	#	#	#
Diathermy Burns/react. To Prep	#	#	#	#	#
Fail To Carry Out PO Observs.	#	#	#	#	#
Failed Infection Control Policy/Hospital Hygiene	#	#	#	#	#
Inappropriate Discharge	#	#	#	#	#
Sexual Abuse	#	#	#	#	#
Failure To X-Ray	#	#	#	#	#
Assault, Etc By Hospital Staff	#	#	#	#	#
MisplacedNaso/OrogastricTubeNotDet	#	#	#	#	#
Infusion Problems	#	#	#	#	#
Retained Instrument Post-Operation	#	#	#	#	#
Wrong Site Surgery	#	#	#	#	#
Fail To Infrm Test Rslts	#	#	#	#	#
Application Of Excess Force	#	#	#	#	#
Wrong Application Of Electrode	#	#	#	#	#
Incorrect Injection Site	#	#	#	#	#
Inadqte Monitor In Recov Room	#	#	#	#	#
Probs With Medical Records	#	#	#	#	#
Cross Infection	#	#	#	#	#
Inapprop. Case Selection	#	#	#	#	#
Grand Total	**899**	**338,860,492**	**30,231,024**	**104,573,444**	**473,664,961**