



Resolution

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Telephone: 020 7811 2700

September 2024

FOI_6729

The following information was requested on 4 September 2024:

[previous request: On 29 May 2024 you requested]

Please could you provide the following information for the financial years 2020-21, 2021-22, 2022-23, 2023-24:

- 1. For Acute NHS Trusts referred to below, the number and value of claims successfully settled which had a primary cause code of "Fail to warn - informed consent".*
- 2. For Acute NHS Trusts referred to below, the number and value of claims successfully settled which had "Fail to warn - informed consent" as a cause code, regardless of whether it was the primary cause or not.*

NHS Acute Trusts data requested for:

*Airedale NHS Trust
Ashford & St Peters Hospitals NHS Trust
Barking, Havering & Redbridge Hospitals NHS Trust
Barnsley Hospital NHS Foundation Trust
Barts Health NHS Trust
Bedfordshire Hospitals NHS Trust
Bolton NHS Foundation Trust
Bradford Teaching Hospitals NHS Foundation Trust
Calderdale & Huddersfield NHS Trust
Chesterfield Royal Hospital NHS Foundation Trust
Countess of Chester NHS Trust
County Durham & Darlington Acute Hospitals NHS Trust
Doncaster and Bassetlaw Hospitals NHS Foundation Trust
East and North Hertfordshire NHS Trust
East Cheshire NHS Trust
East Kent Hospitals University NHS Foundation Trust
East Lancashire Hospitals NHS Trust
Epsom & St Helier University Hospitals NHS Trust
Great Western NHS Trust
Harrogate District Hospital NHS Trust
Homerton University Hospital NHS Foundation Trust
James Paget University Hospitals NHS Foundation Trust
Kings College Hospital Trust
Kingston Hospital NHS Trust
Leeds Teaching Hospitals NHS Trust
Leicestershire Teaching Hospitals NHS Trust
Lewisham Healthcare NHS Trust
London Northwest University Healthcare NHS Trust
Maidstone and Tunbridge Wells NHS trust*

Manchester University NHS Foundation Trust
Medway NHS Foundation Trust
Mid and South Essex NHS Foundation Trust
Mid Cheshire Hospitals NHS Trust
Mid Yorkshire Hospitals NHS Trust
Newcastle upon Tyne Hospitals NHS Foundation Trust
North Cumbria Integrated Care NHS Foundation Trust
St George's University Hospitals NHS Foundation Trust
Northampton General Hospital NHS Trust
Northern Care Alliance NHS Foundation Trust
Nottingham University Hospitals NHS Trust
Queen Elizabeth Hospital Kings Lynn NHS Trust
Alder Hey Children's NHS Foundation Trust
Royal United Hospital Bath
Sandwell and West Birmingham NHS trust
Sherwood Forest Hospitals NHS Trust
Somerset NHS Foundation Trust
Torbay and South Devon Health Care NHS Trust
South Tyneside and Sunderland NHS Foundation Trust
Southport and Ormskirk Hospital NHS Trust
The Hillingdon Hospitals NHS Foundation Trust
Newcastle upon Tyne Hospitals NHS Foundation Trust
The Rotherham NHS Foundation Trust
The Shrewsbury & Telford Hospitals NHS Trust
United Lincoln Hospitals NHS Trust
University Hospital Southampton NHS Trust
University Hospitals Dorset
University Hospitals of the North Midlands
University Hospitals Sussex NHS Foundation Trust
Walsall Hospitals NHS Trust
Warrington and Halton Hospitals NHS Foundation Trust
Wirral Hospital NHS Trust
Chesterfield Royal Hospital NHS Foundation Trust
Doncaster and Bassetlaw Hospitals NHS Foundation Trust
Harrogate District Hospital NHS Trust
Yeovil District Hospital
York and Scarborough Teaching Hospitals NHS Foundation Trust
University Hospitals of Morecambe Bay NHS Foundation Trust
Tameside and Glossop Integrated Care NHS Foundation Trust
Northumbria Healthcare NHS Foundation Trust

[We replied on 5 June 2024 with]

I write further to your request for information below and a separate request we received also from you which is attached.

Please can you clarify if you are only interested in Acute Trusts? As some of the Trusts listed below are not Acute Trusts.

The information for the financial year 2023/24 is currently unavailable as it is subject to an external audit. It will be available on request from August 2024. We can provide the information for 2019/20 – 2022/23.

Your request will be put on hold until we receive the clarification requested above.

We look forward to hearing from you.

[On 6 June 2024 you replied with]

Thanks for your email.

We have the data for 2019/20 – 2022/23 already, thank you. Do I need to submit another request in August for the 2023/24 data?

Regarding the data for the Trusts listed below, are you able to expand on which are not Acute Trusts? I can see that Yeovil District Hospital is listed as a separate Trust, but I believe this is part of Somerset NHSFT so in this instance the request would be for the Somerset NHSFT. I can also see that the following Trusts names are not completely correct in the initial request, so for clarity this request includes:

- *University Hospitals Dorset NHSFT*
- *University Hospitals of North Midlands NHS Trust*
- *Royal United Hospitals Bath NHSFT*

If there are any others I've missed (or you need confirmation on) please let me know.

[On 17 June 2024 we replied with]

Apologies for the delay. You can submit a request from the end of July 2024 for the data for 2023/24.

Thank you for the clarification on the names below.

You are right that all of the Trusts listed are Acute Trusts.

[on 8 July 2024 you contacted us with]

Could I please ask for an update on this and when we can expect a response?

[On 12 July 2024 we replied with]

Sorry please can I clarify do you mean in respect of the 2023/24 data? If so, the information will be available on request from the end of this month.

[On 4 September 2024 you contacted us with]

In my initial request I asked for the data for the Trusts listed below for the financial years 2020-21, 2021-22, 2022-23, 2023-24. You advised the latest financial year is not available and another request would need to be made for this year. However, we never received the data for the previous financial years.

Are you able to provide this please?

Our Response

Please find attached the requested information we are able to provide.

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 [Understanding NHS Resolution data - NHS Resolution](#)

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 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 note: From your original list of Trusts, Southport and Ormskirk Hospital NHS Trust was dissolved on 1 July 2023, and was transferred to a Trust which changed its name to Mersey and West Lancashire Teaching Hospitals NHS Trust. Therefore, this request includes this Trust.

Table 1: - Broken down by named Trusts in the request, number and Cost of Claims Closed (or settled with a periodical payment order) between financial years 2020/21 and 2023/24 with a damages payment where the Primary Cause is '**Fail To Warn-Informed Consent**'. 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. Breakdown by Year and Trust.

Table 2: - Broken down by named Trusts in the request, number and Cost of Claims Closed (or settled with a periodical payment order) between financial years 2020/21 and 2023/24 with a damages payment where any Cause is '**Fail To Warn-Informed Consent**'. 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. Breakdown by Year and Trust.

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 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 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 - Broken down by named Trusts in the request, Number and Cost of Claims Closed (or settled with a periodical payment order) between financial years 2020/21 and 2023/24 with a damages payment where the Primary Cause is 'Fail To Warn-Informed Consent'. 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. Breakdown by Year and Trust.

Table 2 - Broken down by named Trusts in the request, Number and Cost of Claims Closed (or settled with a periodical payment order) between financial years 2020/21 and 2023/24 with a damages payment where any Cause is 'Fail To Warn-Informed Consent'. 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. Breakdown by Year and Trust.

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ClosedSettled	Y
CauseIL1	Fail To Warn-Informed Consent
Claim_Outcome	Damages Paid

Year of Closure (Settlement Year for PPOs) -- Trust	No. of Claims	NHS Legal Costs			
		Damages Paid	Paid	Claimant Costs Paid	Total Paid
2020/21	117	12,787,518	1,806,171	6,503,238	21,096,928
40 Trusts with less than 5 claims	79	9,075,109	1,187,788	4,465,263	14,728,159
Sandwell & West Birmingham Hospitals NHS Trust	11	570,417	124,188	354,700	1,049,305
East Kent Hospitals University NHS Foundation Trust	8	431,600	133,504	480,450	1,045,554
Nottingham University Hospitals NHS Trust	7	996,961	127,151	441,025	1,565,138
Newcastle Upon Tyne Hospitals NHS Foundation Trust (The)	7	1,329,481	201,659	576,614	2,107,755
Mid and South Essex NHS Foundation Trust	5	383,950	31,881	185,186	601,017
2021/22	116	14,215,107	2,196,896	7,986,670	24,398,672
43 Trusts with less than 5 claims	87	10,471,193	1,459,844	5,366,625	17,297,661
Barts Health NHS Trust	9	852,500	304,868	977,528	2,134,896
United Lincolnshire Hospitals NHS Trust	5	359,463	86,236	304,500	750,199
Nottingham University Hospitals NHS Trust	5	372,878	62,687	207,825	643,390
Newcastle Upon Tyne Hospitals NHS Foundation Trust (The)	5	1,573,747	196,326	655,500	2,425,573
University Hospitals Sussex NHS Foundation Trust	5	585,326	86,935	474,692	1,146,953
2022/23	119	12,871,209	1,843,816	7,485,025	22,200,050
43 Trusts with less than 5 claims	78	7,582,288	1,262,651	5,145,490	13,990,429
Barts Health NHS Trust	7	1,700,839	70,516	533,550	2,304,905
Northern Care Alliance NHS Foundation Trust	6	291,000	34,368	230,608	555,976
Newcastle Upon Tyne Hospitals NHS Foundation Trust (The)	6	2,015,417	133,261	489,500	2,638,179
Barnsley Hospital NHS Foundation Trust	6	381,740	84,401	284,922	751,062
South Tyneside and Sunderland NHS Foundation Trust	6	103,640	25,384	171,753	300,777
Barking, Havering and Redbridge University Hospitals NHS Trust	5	209,723	85,313	228,952	523,988
Nottingham University Hospitals NHS Trust	5	586,562	147,922	400,250	1,134,734
2023/24	135	36,928,613	2,606,817	10,636,750	50,172,180
44 Trusts with less than 5 claims	86	20,935,349	1,522,919	6,467,790	28,926,060
Mid and South Essex NHS Foundation Trust	9	1,229,157	110,370	611,698	1,951,225
United Lincolnshire Hospitals NHS Trust	7	360,751	43,451	311,250	715,452
Warrington and Halton Hospitals NHS Foundation Trust	6	4,720,602	319,546	891,012	5,931,160
Barts Health NHS Trust	6	6,819,825	250,957	633,500	7,704,281
Manchester University NHS Foundation Trust	6	421,665	111,316	518,500	1,051,481
Newcastle Upon Tyne Hospitals NHS Foundation Trust (The)	5	2,012,251	70,039	455,500	2,537,789
Barking, Havering and Redbridge University Hospitals NHS Trust	5	227,263	45,827	262,500	535,590
Mersey and West Lancashire Hospitals NHS Trust	5	201,750	132,392	485,000	819,142
Grand Total	487	76,802,447	8,453,700	32,611,683	117,867,830

Table 2 - Broken down by named Trusts in the request, Number and Cost of Claims Closed (or settled with a periodical payment order) between financial years 2020/21 and 2023/24 with a damages payment where any Cause is 'Fail To Warn-Informed Consent'. 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. Breakdown by Year and Trust.

Closed/Settled Claim_Outcome	Y Damages Paid					
Year of Closure (Settlement Year for PPOs) -- Trust		No. of Claims	NHS Legal Costs			
		Damages Paid	Paid	Claimant Costs Paid	Total Paid	
2020/21		187	24,062,182	3,483,648	11,676,740	39,222,570
35 Trusts with less than 5 claims		76	12,779,902	1,259,472	5,063,863	19,103,238
University Hospitals of North Midlands NHS Trust		18	378,171	127,329	270,534	776,034
East Kent Hospitals University NHS Foundation Trust		12	1,461,436	273,603	955,514	2,690,553
Sandwell & West Birmingham Hospitals NHS Trust		11	570,417	124,188	354,700	1,049,305
Newcastle Upon Tyne Hospitals NHS Foundation Trust (The)		9	1,582,981	240,516	784,114	2,607,611
Nottingham University Hospitals NHS Trust		8	1,021,961	133,629	480,025	1,635,616
Mid and South Essex NHS Foundation Trust		8	955,086	108,178	482,087	1,545,350
United Lincolnshire Hospitals NHS Trust		7	572,615	253,608	934,559	1,760,782
Maidstone and Tunbridge Wells NHS Trust		7	731,734	274,194	398,604	1,404,531
South Tyneside and Sunderland NHS Foundation Trust		6	84,250	43,503	152,697	280,450
University Hospitals of Leicester NHS Trust		5	1,847,289	310,295	363,750	2,521,334
Wirral University Teaching Hospital NHS Foundation Trust		5	543,500	123,863	540,543	1,207,906
Great Western Hospitals NHS Foundation Trust		5	424,780	65,830	458,250	948,860
London North West University Healthcare NHS Trust		5	254,560	95,560	229,500	579,620
Manchester University NHS Foundation Trust		5	853,500	49,880	208,000	1,111,380
2021/22		196	28,126,906	3,867,538	14,407,062	46,401,506
38 Trusts with less than 5 claims		79	9,503,398	1,438,253	5,700,862	16,642,513
University Hospitals of North Midlands NHS Trust		15	1,563,237	390,269	711,067	2,664,573
Barts Health NHS Trust		15	1,406,333	361,218	1,374,558	3,142,110
University Hospitals of Leicester NHS Trust		10	1,426,231	153,555	451,141	2,030,926
Mid and South Essex NHS Foundation Trust		9	1,214,348	154,604	758,000	2,126,952
University Hospitals Sussex NHS Foundation Trust		8	4,637,587	271,253	1,249,692	6,158,532
King's College Hospital NHS Foundation Trust		7	563,311	125,042	612,100	1,300,453
United Lincolnshire Hospitals NHS Trust		6	909,766	98,866	417,500	1,426,132
East Kent Hospitals University NHS Foundation Trust		6	230,615	72,667	322,500	625,782
Newcastle Upon Tyne Hospitals NHS Foundation Trust (The)		6	1,589,564	199,250	676,500	2,465,314
Wirral University Teaching Hospital NHS Foundation Trust		5	3,483,140	224,539	703,652	4,411,332
Mid Yorkshire Teaching NHS Trust		5	142,849	20,092	105,000	267,941
Bolton NHS Foundation Trust		5	93,702	32,089	186,591	312,382
Northern Care Alliance NHS Foundation Trust		5	497,400	101,444	325,074	923,917
Homerton Healthcare NHS Foundation Trust		5	185,047	73,717	284,500	543,264
Nottingham University Hospitals NHS Trust		5	372,878	62,687	207,825	643,390
Mersey and West Lancashire Hospitals NHS Trust		5	307,500	87,993	320,500	715,993
2022/23		196	30,156,895	3,348,461	13,379,865	46,885,221
39 Trusts with less than 5 claims		84	9,104,038	1,314,113	5,414,206	15,832,359
Barnsley Hospital NHS Foundation Trust		12	930,082	137,262	515,422	1,582,766
Northern Care Alliance NHS Foundation Trust		11	783,599	145,036	626,808	1,555,443
Barking, Havering and Redbridge University Hospitals NHS Trust		10	4,232,883	342,085	1,073,327	5,648,295
Doncaster and Bassetlaw Teaching Hospitals NHS Foundation Trust		9	957,708	188,658	739,000	1,885,366
Barts Health NHS Trust		9	1,785,339	75,562	629,800	2,490,701
University Hospitals of Leicester NHS Trust		8	1,818,099	90,049	341,100	2,249,248
Newcastle Upon Tyne Hospitals NHS Foundation Trust (The)		8	2,048,417	138,888	582,500	2,769,805
University Hospitals of North Midlands NHS Trust		8	297,394	103,496	232,099	632,988
Mersey and West Lancashire Hospitals NHS Trust		8	1,094,757	152,598	817,280	2,064,635
Nottingham University Hospitals NHS Trust		6	592,812	153,065	427,500	1,173,377
The Leeds Teaching Hospitals NHS Trust		6	4,189,148	188,973	780,000	5,158,121
South Tyneside and Sunderland NHS Foundation Trust		6	103,640	25,384	171,753	300,777
Mid and South Essex NHS Foundation Trust		6	1,149,979	130,656	473,793	1,754,427
Mid Yorkshire Teaching NHS Trust		5	1,069,000	162,636	555,277	1,786,913
2023/24		217	46,235,690	3,934,410	16,818,166	66,988,266
40 Trusts with less than 5 claims		94	21,389,107	1,525,783	6,839,691	29,754,582
Mid and South Essex NHS Foundation Trust		12	2,022,074	160,866	863,948	3,046,888
University Hospitals of Leicester NHS Trust		9	1,274,629	138,525	549,500	1,962,654
United Lincolnshire Hospitals NHS Trust		9	605,435	75,853	390,250	1,071,537
Barking, Havering and Redbridge University Hospitals NHS Trust		9	716,009	108,707	633,000	1,457,715
Barts Health NHS Trust		9	7,090,513	353,918	947,000	8,391,431
Manchester University NHS Foundation Trust		9	456,665	117,995	575,150	1,149,810
Northern Care Alliance NHS Foundation Trust		8	544,945	82,778	606,000	1,233,723
University Hospitals of North Midlands NHS Trust		7	692,500	343,441	922,635	1,958,577
King's College Hospital NHS Foundation Trust		6	479,165	115,823	480,000	1,074,988
Lewisham & Greenwich NHS Trust		6	2,481,415	142,411	1,173,500	3,797,326
Newcastle Upon Tyne Hospitals NHS Foundation Trust (The)		6	2,062,258	101,682	568,000	2,731,940
Bedfordshire Hospitals NHS Foundation Trust		6	134,192	22,655	234,250	391,097
Warrington and Halton Hospitals NHS Foundation Trust		6	4,720,602	319,546	891,012	5,931,160
Mersey and West Lancashire Hospitals NHS Trust		6	376,172	153,967	550,000	1,080,139
University Hospitals Sussex NHS Foundation Trust		5	234,298	29,244	140,880	404,423
Doncaster and Bassetlaw Teaching Hospitals NHS Foundation Trust		5	694,211	78,449	256,350	1,029,009
Barnsley Hospital NHS Foundation Trust		5	261,500	62,767	197,000	521,267
Grand Total		796	128,581,673	14,634,058	56,281,832	199,497,563