NHS Resolution

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November 2024
FOI_6758

The following information was requested on 20 September 2024:

1. *How much (£) compensation has been awarded by the NHS to patients and families of jailed-breast surgeon Ian Paterson?*

2. *How many patients of Ian Paterson have received compensation from the NHS?*

3. *How many cases are outstanding and still awaiting compensation in relation to patients of Ian Paterson?*

4. *How much money has been spent by NHS Resolution on legal fees for the upcoming inquests into the deaths of Ian Paterson patients?*

5. *How much money has NHS Resolution set aside for litigation fees to cover the coroner's inquests?*

Our Response

We have interpreted your request to mean NHS Resolution payments on all Ian Paterson claims.

On behalf of the Heart of England Foundation Trust NHS Resolution agreed to contribute £3.6 million to the global settlements made by Spire of £37 million, to include damages and claimant costs and with respect to all private patients. The £3.6 million is likely to represent a contribution to those cases where Paterson, in his capacity as an NHS consultant, referred certain of his own patients to himself in his private capacity for inappropriate procedures. We did not contribute to any wholly private claims. This payment is separate from NHS claims, which are detailed below.

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.

Please find attached the following table which answers Q1 and Q2 in respect of NHS patients:

Table 1 shows: - Number and Cost of Clinical Claims Closed between financial years '2010/11' and '2023/24' with a damages payment which relate to Ian Paterson - The data includes the damages paid up until the end of each relevant financial year of closure.

Low Figures

Please note we have supressed 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.

In response to Q3: *How many cases are outstanding and still awaiting compensation in relation to patients of Ian Paterson?*

There are currently fewer than 5 open claims relating to Ian Paterson. (Please see note above relating to “Low Figures”). We would not be able to comment on how many of such open claims are likely to result in payment of compensation in any event.

In response to Q4: *How much money has been spent by NHS Resolution on legal fees for the upcoming inquests into the deaths of Ian Paterson patients?*

A total of £125,961 has been spent to date.

In response to Q5: *How much money has NHS Resolution set aside for litigation fees to cover the coroner's inquests?*

There are no litigation fees in relation to inquests. We do hold a reserve to cover the cost of future representation at inquests.

NHS Resolution considers that this information is exempt from disclosure under s.36 (2)(c) and s.43 (2) of Freedom of Information Act 2000 (FOIA).

In consideration of this request, NHS Resolution concludes that the disclosure of this information would prejudice the effective conduct of public affairs (s.36 (2) (c) and prejudice commercial interests (s.43 (2)). Disclosing precise values of liabilities accounted for, and the documentation related to this would be likely to encourage claims informed by that amount rather than conventional civil liability principles.

NHS Resolution has given due consideration to the public interest test when relying on the above listed exemptions, s.36(2)(c) and s.43(2) and concludes that the factors in favour of non-disclosure outweigh the factors in favour of disclosure under the public interest test.

Actual experience may differ considerably from the estimates that have been accounted for, however, it will be several years before we are likely to be able to confirm that, due to the time lag between incidents occurring, claims being received, and then being settled, particularly for clinical negligence claims.

NHS Resolution has considered all the relevant factors in favour of disclosure, including:

- The public interest in favour of disclosure inherent in FOIA.
- Transparency and accountability around NHS Resolution’s potential costs of clinical negligence claims.

NHS Resolution has weighed these against the factors in favour of maintaining the exemptions, including:

- The strong public interest in the proper and effective discharge of NHS Resolution's statutory duties and responsibilities, which include exercising its functions in an efficient, effective and economical way;
- The public interests in the timely and cost-effective resolution of complaints and claims;
- The public interest in the costs of any claims not being compounded by 'anchoring' claims to reserved amounts.

In light of all of the factors, NHS Resolution concludes that the public interest favours non-disclosure of the requested information.

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/

Freedom of Information Request# 6758
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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Data correct as at: The end of every financial year

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Table 1: Number and Cost of Clinical Claims Closed between financial years '2010/11' and '2023/24' with a damages payment, which relate to Ian Paterson. The data includes the damages paid up until the end of each relevant financial year of closure.

ClosedSettled	Y
Claim_Outcome	Damages Paid

Year of Closure	No. of Claims	Damages Paid
2010/11	#	#
2011/12	#	#
2012/13	9	259,000
2013/14	36	1,672,085
2014/15	47	1,800,170
2015/16	63	2,511,368
2016/17	38	2,351,250
2017/18	12	603,585
2018/19	22	3,309,000
2019/20	9	224,000
2020/21	#	#
2021/22	#	#
2022/23	12	365,000
2023/24	5	136,000
Grand Total	**264**	**13,632,058**