



Resolution

8th Floor,
10 South Colonnade
Canary Wharf
London
E14 4PU

Telephone: 020 7811 2700

October 2024
FOI_6801

The following information was requested on 9 October 2024:

I would like to request the number of compensation payouts to both NHS staff and former NHS staff related to asbestos in each of the last three financial years: 2021/22, 2022/23 and 2023/24.

I would also like to request the total amount paid in compensation related to asbestos in each of those years.

[We contacted you on 11 October 2024 with]:

Thank you for your request to NHS Resolution.

We have received your requests via two different trusts as well.

I am writing to ask if you would be able to withdraw the requests from individual trusts and we would provide the answer broken down by all trusts?

We look forward to hearing from you.

[You replied on 11 October 2024 with]:

I have now withdrawn the information from individual trusts. I would like you to provide the full response broken down by trust as you suggest.

Our Response

Thank you for your request for information. We are able to provide the claims data for England and not the rest of the UK.

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 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.

By way of advice and assistance and further to our obligations under s. 16 Freedom of Information Act 2000, NHS Resolution manages a number of schemes (similar to insurance) for the NHS: - including:

(i) The Liability to Third Parties Scheme (LTPS). This covers both employers' liability (i.e. in relation to duties of care owed to employees) and public liability (i.e. in relation to duties of care owed other patients, visitors, and other members of the public). You can find out more about the LTPS scheme here: <https://resolution.nhs.uk/services/claims-management/non-clinical-claims/risk-pooling-schemes-for-trusts/liabilities-to-third-parties-scheme/> .

(ii) DHSC non-clinical which covers non-clinical negligence liabilities that have transferred to the Secretary of State for Health and Social Care following the abolition of any relevant health bodies. You can find out more about this scheme here: <https://resolution.nhs.uk/services/claims-management/non-clinical-schemes/dhsc-non-clinical/>

The attached data is taken from these schemes, and shows:

Table 1 shows: - Number and Cost of LTPS and DH Employers Liability Claims Closed between financial years 2021/22 and 2023/24 with a damages payment, where any injury is **Mesothelioma or Asbestosis**, broken down by Member/Trust.

Low Numbers

We have suppressed 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.

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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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: Number and Cost of LTPS and DH Employers Liability Claims Closed between financial years 2021/22 and 2023/24 with a damages payment, where any injury is Mesothelioma or Asbestosis, broken down by Member/Trust.

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ClosedSettled scheme	Y (All)
Claim_Outcome	Damages Paid
Liability_Type	EL

Year of Closure ---Member/Trust Name	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2021/22					
Department of Health					
DH Liab	22	3,399,341	294,100	1,316,133	5,009,574
Royal Marsden NHS Foundation Trust (The)	#	#	#	#	#
Royal Berkshire NHS Foundation Trust	#	#	#	#	#
2022/23					
Department of Health					
DH Liab	34	4,713,472	424,091	1,713,383	6,850,946
Manchester University NHS Foundation Trust	#	#	#	#	#
Cambridge University Hospitals NHS Foundation Trust	#	#	#	#	#
Royal Berkshire NHS Foundation Trust	#	#	#	#	#
Sheffield Teaching Hospitals NHS Foundation Trust	#	#	#	#	#
Mid and South Essex NHS Foundation Trust	#	#	#	#	#
2023/24					
Department of Health					
DH Liab	25	3,012,762	323,618	1,347,619	4,683,999
NHS Blood & Transplant	#	#	#	#	#
South Tyneside and Sunderland NHS Foundation Trust	#	#	#	#	#
Oxford University Hospitals NHS Foundation Trust	#	#	#	#	#
Manchester University NHS Foundation Trust	#	#	#	#	#
Northern Lincolnshire & Goole Hospitals NHS Foundation Trust	#	#	#	#	#
NHS Property Services Limited	#	#	#	#	#
Grand Total	95	11,968,856	1,153,995	4,797,351	17,920,202