



# Resolution

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October 2024  
FOI\_6808

The following information was requested on 11 October 2024:

- 1. How much has the NHS paid in compensation to NHS patients for operations and treatments in non-NHS hospitals and treatment centre in 2023/24 and what was the most common injury category for payment in each of those years?*
- 2. Can you provide a table of all the injury codes for the cohort of payouts in relation to Question 1 and the number of claims against each code?*

*Note: The question refers to when the payout was made regardless of when the claim was lodged or when the incident happened. The answer should be provided on the same basis as was done for a previous Fol response from you [Ref: FOI\_5209]*

*[Please note that the previous similar request is - [FOI 6267-non-NHS-hospitals-treatment-Independent-Providers.pdf \(resolution.nhs.uk\)](#) & [FOI 5617 Treatments-in-non-NHS-hospitals.pdf \(resolution.nhs.uk\)](#) ]*

## Our Response

Please find attached the details of claims recorded against independent sector healthcare providers treating NHS patients who are members of our indemnity scheme. The numbers are likely to include cases where treatment was in the community, as opposed to on the premises of private providers.

Please note that we do not indemnify **all** independent sector providers and therefore can only answer the questions raised for those organisations that are members of our schemes. Therefore, the volume of claims notified and settled will fluctuate, dependant on the number of independent sector members we indemnify at any point.

Please note there are a small number of claims not included where a Trust has sub-contracted work to a private hospital, and it is a term of the arrangement that the Trust agrees to accept liability, and we log such cases against the Trust. It is not possible to identify these from our Claims Management System as we do not have a code for them.

Please note claims notified/received and open are not guaranteed to be settled and/or closed in the same year and can take many years to be concluded. 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.

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.

**Table 1 shows:** - Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) in the financial year 2023/24 with a damages payment for NHS patients referred to Independent Providers. 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.

**Tables 2 shows:** - Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) in the financial year 2023/24 with a damages payment for NHS patients referred to Independent Providers. Broken down by Primary Injury. 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**

Please note 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. 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.

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 Clinical Claims Closed (or settled with a periodical payment order) in the financial year 2023/24 with a damages payment for NHS patients referred to Independent Providers. 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 2: Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) in the financial year 2023/24 with a damages payment for NHS patients referred to Independent Providers. Broken down by Primary Injury. 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 1: Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) in the financial year 2023/24 with a damages payment for NHS patients referred to Independent Providers. 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 Paid | Total Paid |
|--------------------------------------------|---------------|--------------|----------------------|---------------------------|------------|
| 2023/24                                    | 236           | 23,255,123   | 3,033,918            | 12,455,195                | 38,744,236 |

**Table 2: Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) in the financial year 2023/24 with a damages payment for NHS patients referred to Independent Providers. Broken down by Primary Injury. 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 Injuries               | No. of Claims | Damages Paid      | NHS Legal Costs Paid | Claimant Legal Costs Paid | Total Paid        |
|--------------------------------|---------------|-------------------|----------------------|---------------------------|-------------------|
| Adtnl/unnecessary Operation(s) | 90            | 7,731,157         | 1,043,747            | 4,250,356                 | 13,025,260        |
| Unnecessary Pain               | 38            | 1,699,034         | 313,704              | 1,470,195                 | 3,482,934         |
| Poor Outcome - Fractures Etc.  | 10            | 1,229,245         | 133,527              | 682,480                   | 2,045,252         |
| Nerve Damage                   | 9             | 1,734,215         | 288,915              | 940,000                   | 2,963,130         |
| Fracture                       | 7             | 381,244           | 26,646               | 243,500                   | 651,390           |
| Other                          | 6             | 109,989           | 25,233               | 205,000                   | 340,222           |
| Other Visual Problems          | 6             | 144,000           | 18,457               | 183,000                   | 345,457           |
| Pressure Sores                 | 5             | 84,583            | 33,080               | 142,690                   | 260,352           |
| Fatality                       | 5             | 280,970           | 44,002               | 161,290                   | 486,263           |
| Bile Duct Damage               | #             | #                 | #                    | #                         | #                 |
| Bowel Damage/ Dysfunction      | #             | #                 | #                    | #                         | #                 |
| Psychiatric/Psychological Dmge | #             | #                 | #                    | #                         | #                 |
| Amputation - Lower             | #             | #                 | #                    | #                         | #                 |
| Spinal Damage                  | #             | #                 | #                    | #                         | #                 |
| Joint Damage                   | #             | #                 | #                    | #                         | #                 |
| Scarring                       | #             | #                 | #                    | #                         | #                 |
| Hernia                         | #             | #                 | #                    | #                         | #                 |
| Blindness                      | #             | #                 | #                    | #                         | #                 |
| Perforation                    | #             | #                 | #                    | #                         | #                 |
| Incontinence                   | #             | #                 | #                    | #                         | #                 |
| Tissue Damage                  | #             | #                 | #                    | #                         | #                 |
| Burn(s)                        | #             | #                 | #                    | #                         | #                 |
| Dislocation                    | #             | #                 | #                    | #                         | #                 |
| Infection (bacterial)          | #             | #                 | #                    | #                         | #                 |
| Thrombosis/Embolism            | #             | #                 | #                    | #                         | #                 |
| Cancer                         | #             | #                 | #                    | #                         | #                 |
| Foot Drop                      | #             | #                 | #                    | #                         | #                 |
| Tendon Damage                  | #             | #                 | #                    | #                         | #                 |
| Bladder Damage                 | #             | #                 | #                    | #                         | #                 |
| Amputation - Upper             | #             | #                 | #                    | #                         | #                 |
| Sexual Abuse                   | #             | #                 | #                    | #                         | #                 |
| Cystic Growth                  | #             | #                 | #                    | #                         | #                 |
| Infectious Diseases            | #             | #                 | #                    | #                         | #                 |
| Hospital Acquired Infection    | #             | #                 | #                    | #                         | #                 |
| Unwanted Pregnancy             | #             | #                 | #                    | #                         | #                 |
| Arterial Damage                | #             | #                 | #                    | #                         | #                 |
| Anal Fissure                   | #             | #                 | #                    | #                         | #                 |
| Malignant Tumour               | #             | #                 | #                    | #                         | #                 |
| Cardiac Arrest                 | #             | #                 | #                    | #                         | #                 |
| Cardiovascular Condition       | #             | #                 | #                    | #                         | #                 |
| Rupture                        | #             | #                 | #                    | #                         | #                 |
| Removal Of Testicle            | #             | #                 | #                    | #                         | #                 |
| Liver Damage                   | #             | #                 | #                    | #                         | #                 |
| <b>Grand Total</b>             | <b>236</b>    | <b>23,255,123</b> | <b>3,033,918</b>     | <b>12,455,195</b>         | <b>38,744,236</b> |