



Resolution

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November 2024

FOI_6813

The following information was requested on 15 October and clarified on 28 October 2024:

[Requested on 15 October 2024]

Under the Freedom of Information Act 2000, could NHS Resolution provide the following information.

- *The total number of claims made to NHS Resolution between 2019 and 2024 relating to infections resultant from surgery or surgical site infection (SSI).*
- *The number of successful claims made to NHS resolution between 2019 and 2024 relating to infections resultant from surgery or surgical site infection (SSI).*
- *The total value (£s) of successful claims paid out by NHS resolutions between 2019 and 2024 relating to infections resultant from surgery or surgical site infection (SSI).*
- *The total number of disciplinary actions taken against NHS staff as a result of successful claims to NHS resolution between 2019 and 2024 relating to infections resultant from surgery or surgical site infection (SSI).*

[We replied on 15 October 2024]

I confirm that we received your requests below.

I've logged them as two separate requests:

- **FOI_6813** – for Surgical site infection
- **FOI_6814** – for fire in surgical theatre

[We sought clarification on 18 October 2024]

Thank you for your request for information.

*Further to our e-mail below, I am writing about your request **FOI_6813** relating to **Surgical site infection**.*

It might be helpful to refer to some of the Claims data that we publish on our website:

- You can find ten years' worth of claims data covering all NHS Resolution clinical schemes, via our webpage [Annual statistics \(including Factsheet 5\) - NHS Resolution](#)
- Individual Trust Claims Data handled per financial year – [Factsheet 5 – trust and authority claims data 2022/23 – NHS Resolution](#) (including maternity claims data for individual trusts).

Please also refer to:

- Claims Data: [read our guidance on how Claims Data is held](#) and please refer to the learning [Codes](#) used in our Claims management database.

We do not have a learning code for infections resultant from surgery or surgical site infection (SSI). Therefore, we would not be able to readily identify these types of claims.

Please refer to the learning codes link provided above for the type of codes we do have and which we are able to report on.

Your request will be put on hold until we hear from you.

[You replied on 28 October 2024 with]

Thank you for sending across these details. In line with the below email and under the freedom of information act 2000, could NHS resolution provide the following information in accordance with the learning codes as outlined in the excel spreadsheet provided by NHS resolution:

[Codes](#)

- The total number of claims made to NHS Resolution between 2019 and 2024 relating to learning 'cause' code "diathermy burns/ react. To prep"
- The number of successful claims made to NHS resolution between 2019 and 2024 relating to learning 'cause' code "diathermy burns/ react. To prep"
- The total value (£s) of successful claims paid out by NHS resolutions between 2019 and 2024 relating to learning 'cause' code "diathermy burns/ react. To prep"
- The total number of disciplinary actions taken against NHS staff as a result of successful claims to NHS resolution between 2019 and 2024 relating learning 'cause' code "diathermy burns/ react. To prep"

Could NHS resolution also provide the following information

- The total number of claims made to NHS Resolution between 2019 and 2024 relating to learning 'cause' code "Failed Infection Control Policy/Hospital Hygiene"
- The number of successful claims made to NHS resolution between 2019 and 2024 relating to learning 'cause' code "Failed Infection Control Policy/Hospital Hygiene"
- The total value (£s) of successful claims paid out by NHS resolutions between 2019 and 2024 relating to learning 'cause' code "Failed Infection Control Policy/Hospital Hygiene"
- The total number of disciplinary actions taken against NHS staff as a result of successful claims to NHS resolution between 2019 and 2024 relating learning 'cause' code "Failed Infection Control Policy/Hospital Hygiene"

Could NHS resolution also provide the following information:

- The total number of claims made to NHS Resolution between 2019 and 2024 relating to learning 'injury' code "hospital acquired infections"
- The number of successful claims made to NHS resolution between 2019 and 2024 relating to learning 'injury' code "hospital acquired infections"
- The total value (£s) of successful claims paid out by NHS resolutions between 2019 and 2024 relating to learning 'injury' code "hospital acquired infections"
- The total number of disciplinary actions taken against NHS staff as a result of successful claims to NHS resolution between 2019 and 2024 relating learning 'injury' code "hospital acquired infections"

Our Response

We do not hold the following information:

The total number of disciplinary actions taken against NHS staff as a result of successful claims to NHS resolution between 2019 and 2024 relating learning 'cause' code "diathermy burns/ react. To prep"

The total number of disciplinary actions taken against NHS staff as a result of successful claims to NHS resolution between 2019 and 2024 relating learning 'cause' code "Failed Infection Control Policy/Hospital Hygiene"

The total number of disciplinary actions taken against NHS staff as a result of successful claims to NHS resolution between 2019 and 2024 relating learning 'injury' code "hospital acquired infections"

You will need to contact the individual Trusts directly for this information.

Please find attached the requested information we are able to provide. This information only covers England and not the rest of the UK.

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.

For information about our Clinical Negligence Scheme for Trusts, please visit our website here: [Clinical Negligence Scheme for Trusts - NHS Resolution](#)

Table 1 shows: - Number of Clinical Claims and Incidents received between financial years 2018/19 and 2023/24 where the Primary cause is "diathermy burns/ react. To prep" or "Failed Infection Control Policy/Hospital Hygiene".

Table 2 shows: - Number of Clinical Claims and Incidents received between financial years 2018/19 and 2023/24 where the Primary injury is "hospital acquired infections".

Table 3 shows: - Number and Cost of Clinical Claims Closed between financial years 2018/19 and 2023/24 with a damages payment, where the Primary cause is "diathermy burns/ react. To prep" or "Failed Infection Control Policy/Hospital Hygiene".

Table 4 shows: - Number and Cost of Clinical Claims Closed between financial years 2018/19 and 2023/24 with a damages payment, where the Primary injury is "hospital acquired infections".

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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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 of Clinical Claims and Incidents received between financial years 2018/19 and 2023/24 where the Primary cause is "diathermy burns/ react. To prep" or "Failed Infection Control Policy/Hospital Hygiene".

Table 2: Number of Clinical Claims and Incidents received between financial years 2018/19 and 2023/24 where the Primary injury is "hospital acquired infections".

Table 3: Number and Cost of Clinical Claims Closed between financial years 2018/19 and 2023/24 with a damages payment, where the Primary cause is "diathermy burns/ react. To prep" or "Failed Infection Control Policy/Hospital Hygiene".

Table 4: Number and Cost of Clinical Claims Closed between financial years 2018/19 and 2023/24 with a damages payment, where the Primary injury is "hospital acquired infections".

Table 1: Number of Clinical Claims and Incidents received between financial years 2018/19 and 2023/24 where the Primary cause is "diathermy burns/ react. To prep" or "Failed Infection Control Policy/Hospital Hygiene".

Notified scheme	Y (All)
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Year of Notification --Primary Cause	No. of Claims
2018/19	
Diathermy Burns/react. To Prep	29
Failed Infection Control Policy/Hospital Hygiene	8
2019/20	
Diathermy Burns/react. To Prep	31
Failed Infection Control Policy/Hospital Hygiene	17
2020/21	
Diathermy Burns/react. To Prep	26
Failed Infection Control Policy/Hospital Hygiene	9
2021/22	
Diathermy Burns/react. To Prep	20
Failed Infection Control Policy/Hospital Hygiene	20
2022/23	
Diathermy Burns/react. To Prep	12
Failed Infection Control Policy/Hospital Hygiene	19
2023/24	
Diathermy Burns/react. To Prep	22
Failed Infection Control Policy/Hospital Hygiene	19
Grand Total	232

Table 2: Number of Clinical Claims and Incidents received between financial years 2018/19 and 2023/24 where the Primary injury is "hospital acquired infections" .

Notified scheme	Y (All)
Year of Notification -- Primary Injury	No. of Claims
2018/19	
Hospital Acquired Infection	28
2019/20	
Hospital Acquired Infection	28
2020/21	
Hospital Acquired Infection	21
2021/22	
Hospital Acquired Infection	17
2022/23	
Hospital Acquired Infection	9
2023/24	
Hospital Acquired Infection	7
Grand Total	110

Table 3: Number and Cost of Clinical Claims Closed between financial years 2018/19 and 2023/24 with a damages payment, where the Primary cause is "diathermy burns/ react. To prep" or "Failed Infection Control Policy/Hospital Hygiene".

ClosedSettled scheme Claim_Outcome	Y (All) Damages Paid
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Year of Closure ---Primary Cause	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid
2018/19				
Diathermy Burns/react. To Prep	40	1,063,634	166,314	869,135
Failed Infection Control Policy/Hospital Hygiene	11	3,116,242	301,029	1,157,069
2019/20				
Diathermy Burns/react. To Prep	26	611,017	114,394	539,284
Failed Infection Control Policy/Hospital Hygiene	8	1,657,133	171,699	708,617
2020/21				
Diathermy Burns/react. To Prep	22	1,138,473	190,702	803,247
Failed Infection Control Policy/Hospital Hygiene	9	47,676	#	92,457
2021/22				
Diathermy Burns/react. To Prep	17	360,441	55,867	368,476
Failed Infection Control Policy/Hospital Hygiene	9	67,657	46,647	130,940
2022/23				
Diathermy Burns/react. To Prep	23	609,284	227,157	939,528
Failed Infection Control Policy/Hospital Hygiene	14	538,241	263,905	355,700
2023/24				
Diathermy Burns/react. To Prep	21	385,513	50,751	462,578
Failed Infection Control Policy/Hospital Hygiene	12	244,000	48,664	392,750

Table 4: Number and Cost of Clinical Claims Closed between financial years 2018/19 and 2023/24 with a damages payment, where the Primary injury is "hospital acquired infections".

ClosedSettled scheme	Y (All)
Claim_Outcome	Damages Paid

Year of Closure ---Primary Injury	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2018/19					
Hospital Acquired Infection	20	3,320,868	374,353	1,476,291	5,171,513
2019/20					
Hospital Acquired Infection	19	3,108,039	311,200	944,317	4,363,556
2020/21					
Hospital Acquired Infection	12	1,625,109	255,420	768,782	2,649,311
2021/22					
Hospital Acquired Infection	17	1,317,266	120,603	724,362	2,162,230
2022/23					
Hospital Acquired Infection	13	842,451	178,847	789,687	1,810,985
2023/24					
Hospital Acquired Infection	12	786,195	115,068	545,500	1,446,763
Grand Total	93	10,999,927	1,355,491	5,248,938	17,604,357