



Resolution

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December 2024
FOI_6895

The following information was requested on 2 December 2024:

I have been advised the press office that I should submit an FOI request as this data is likely to be held by NHS Resolution but is not publicly available elsewhere.

I am writing to you under the Freedom of Information Act 2000 to request the following information regarding maternity damages payments:

1) Total damages paid out (in £) in the specialty of 'Obstetrics CP/BD', broken down by parental income bracket, for the three most recent financial years for which data is available (e.g. 23/24, 22/23, 21/22 – or nearest years).

I understand parental income is an important factor used to calculate damages awarded for loss of future earnings, so this data should be held.

The brackets can be whichever are routinely used to record this data. If this data is not routinely grouped into brackets, then please use the following parental income brackets: £0 to £12,500 per annum, £12,501 to £30,000, £30,001 to £50,000, £50,001 to £80,000, £80,001 to £100,000, £100,001 to £125,000, £125,001 to £150,000, £150,000+.

2) The total number of 'Obstetrics CP/BD' cases in which damages were awarded in each relevant year (as above) for each of the parental income brackets (as above).

Where there are fewer than 5 cases in any bracket, please put <5 to protect personal information.

Our Response

We only hold claims data for England (our schemes only cover England), not the UK.

Although NHS Resolution may hold some information relating to claims such as what you have requested (England only claims), due to the way claims are recorded on our claims database, we will not be able to identify such specific cases. It might be helpful to explain that when claims are notified to NHS Resolution they are categorised against pre-defined cause, injury and speciality [codes](#). Unfortunately, we do not have a code for the *parental income bracket*. Therefore, while there may be information held in our

records, we are not readily able to identify the relevant files by searching the database. To do so would involve a manual review of all Obstetrics – Cerebral Palsy/Brain Damage cases to identify the *parental income bracket*. NHS Resolution receives hundreds of Obstetrics – Cerebral Palsy/Brain Damage claims each year.

Therefore, we estimate that the cost of complying with the request in its entirety would exceed the ‘appropriate limit’. Section 12(1) of the FOIA is a provision which allows a public authority to refuse to comply with a request for information where the cost of compliance is estimated to exceed a set limit (known as the ‘appropriate limit’). The ‘appropriate limit’ for NHS Resolution is £450. This equates to 18 hours of work at the rate of £25 per hour set out in the ‘Fees Regulations’.

We estimate that it would take on average 10 minutes to locate, retrieve and extract the requested information from an individual file. It may therefore be the case that we would be able to examine only 108 files within 18 hours.

In addition, given the complexity of clinical negligence claims and their litigation, it is possible for a single electronic or paper-based file to contain hundreds of documents in a variety of formats.

Please also note even if we were able to carry out a review of 108 random files, we may not be able to provide you with the level of detail you require owing to Data Protection grounds.

We would need to suppress low numbers or any information that could possibly lead to the identification of claimants, patients or individuals where disclosure would breach the General Data Protection Regulation. We would not be able to provide the information in the way you have set out your request.

We do have the following specialty and injury code: Obstetrics – Cerebral Palsy/Brain Damage.

We could provide you with high level data relating to the above specialty and injury code. However, we would not be able to break it down according to the parental income brackets

For details of the claims data that we publish please refer to our [Annual Report Statistics](#).

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 (on orthopaedic surgery claims). 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

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