NHS Resolution

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January 2025
FOI_6930

The following information was requested on 3 January 2025:

1. *How many clinical negligence claims involving an injury code of (i) loss of sexual function, or (ii) impotence, were paid out by the NHSLA or NHS Resolution in the combined last three financial years? (21/22) (22/23) and (23/24)?*

What was the monetary value of payments made against those claims that were paid in those three combined financial years, regardless of when the incident took place or the claim was lodged?

2. *How many clinical negligence claims involving an injury code of (i) incontinence were paid out by the NHSLA or NHS Resolution in the last financial year (23/24)?*

What was the monetary value of payments made against those claims that were paid in that financial year, regardless of when the incident took place or the claim was lodged?

Our Response

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 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.

Please find attached the requested information. The data covers our clinical scheme. For information about our Clinical Negligence Schemes, please visit our website here: [Clinical schemes - NHS Resolution]

Table 1 shows: - Number and Cost of Clinical Claims Closed between financial years 2021/22 - 2023/24 where Primary Injury is '**Impotence**' or **'Loss of Sexual Function'** with damages paid. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Table 2 shows: - Number and Cost of Clinical Claims Closed during the financial year 2023/24 where Primary Injury is '**Incontinence**' with damages paid. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Low numbers

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.

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# 6930
Data correct as at: The end of every financial year

T A B L E   O F   C O N T E N T S

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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Table 1: Number and Cost of Clinical Claims Closed between financial years '2021/22' and '2023/24' with a damages payment, where the Primary Injury is 'Loss of Sexual Function' or 'Impotence'. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure. Broken down by Year and Primary Injury.

ClosedSettled	Y
Claim_Outcome	Damages Paid
Clinical_NonClinical	Clinical

Year of Closure -- Primary Injury	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2021/22					
Loss Of Sexual Function	7	534,877	76,626	427,250	1,038,753
Impotence	#	#	#	#	#
2022/23					
Loss Of Sexual Function	11	2,844,012	232,685	948,469	4,025,166
Impotence	#	#	#	#	#
2023/24					
Loss Of Sexual Function	13	2,319,853	142,552	910,143	3,372,548
Impotence	#	#	#	#	#
Grand Total	**36**	**8,286,185**	**535,067**	**2,532,362**	**11,353,614**

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Table 2: Number and Cost of Clinical Claims Closed during the '2023/24' financial year with a damages payment, where the Primary Injury is 'Incontinence'. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure. Broken down by Year.

ClosedSettled	Y
Clinical_NonClinical	Clinical
Claim_Outcome	Damages Paid
Injury1L1	Incontinence

Year of Closure	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2023/24	34	7,978,432	823,574	3,007,623	11,809,630