



Resolution

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February 2025

FOI_6966

The following information was requested on 14 January 2025 and clarified on 16 January 2025:

[You requested on 14 January 2025]:

I am requesting this information under the Freedom of Information Act.

Could you please provide data in response to the following questions:

How many damages claims were made against NHS Trusts due to wrong implant or prosthesis incidents from January 1, 2020, to December 31, 2024? Please break the figures down by Trust and by calendar year. If you can only break the figures down by financial year, please provide figures for years incorporating the period of 2019/20 to 2024/25, inclusive of the first half of 2024/25.

Of the above, how many were resolved with a settlement, resolved without a settlement, or remain in progress? For each, please provide a total number of claims and a breakdown by status for each NHS Trust.

How much was paid in damages by each NHS Trust between January 1, 2020, and December 31, 2024? Please note that, if there were fewer than five claims against a Trust, I would like to know the total damages figure even if the number of claims has to be withheld (if possible).

What was the cost to each Trust in legal fees and payments to cover claimants' fees?

[We sought clarified on 15 January 2025]:

Thank you for your request for information.

We are able to provide the information requested for complete financial years. We can provide the data for the financial years 2019/20 – 2023/24.

The data for the financial year 2024/25 is currently unavailable. It will be available on request from August 2025.

We are aware that the below request has been submitted to individual Trusts in England. As NHS Resolution holds the claims data for NHS Trusts in England, we can provide you with the information and include a trust level breakdown. Would it be ok for you to contact the individual Trusts you have submitted the request to and withdraw your request? That way you can receive the one response from us.

We look forward to hearing from you.

[You replied on 15 January 2025 with]:

Thank you for your email and for the clarity over 2024/25 data.

I have contacted NHS Trusts to gather a variety of information, including incident reports and details, so I would not want to withdraw my request. However, I did include a question on compensation (as I sent my request around Britain and am aware that NHS Resolution provides results for English Trusts only). Would you need me to retract the question about claims from all requests sent to Trusts in order to complete my request?

[We replied on 15 January 2025 with]

Thank you for your e-mail. This is helpful.

As the Trusts (those in England) will ultimately contact us to obtain their claims data we would be grateful if you could withdraw the claims element of the request from the individual trusts.

[You replied on 16 January 2025]

Thank you for your reply. I will contact the English Trusts and retract the request for claims information.

Our Response

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

We are only able to provide data under specific codes that we capture within our claims management system. This system is primarily designed to manage claims and therefore will not capture every type of potential cause or event. Please see here for the clinical codes: [CNST-Codes.xlsx](#) . 'Wrong Implant/Prosthesis' is not an available cause code. We do not capture in our claims management system never events as a cause. We do capture 'Wrong Implant/Prosthesis' as a learning code under our learning code for never events.

There may be other claims within our system that feature issues relating to 'Wrong Implant/Prosthesis' but may be captured differently due to the circumstances of the claim. We are unable to search the individual cases as to do so would exceed the FOI limit. Therefore, we estimate that the cost of complying with the request in its entirety would exceed the 'appropriate limit'. Section 12(1) of the Freedom of Information Act 2000 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 have provided the information we are able to provide within the cost limit.

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 [Understanding NHS Resolution data - NHS Resolution](#)

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.

Table 1: Number of Claims and/or Incidents received between financial years '2019/20' and '2023/24' where a never event code had a learning code of "**Wrong Implant/Prosthesis".

Table 2: Number and Cost of Claims Closed between financial years '2019/20' and '2023/24' with a damages payment where a never event code had a learning code of "**Wrong Implant/Prosthesis".

Table 3: Number and Cost of Claims Closed between financial years '2019/20' and '2023/24' with **NIL** damages paid where a never event code had a learning code of "**Wrong Implant/Prosthesis".

Please note: the tables broken down by Trusts should not be interpreted as a league table. Larger member organisations and those which provide more complex treatments may receive more claims than smaller organisations or those providing low risk care. Inevitably, different institutions face different levels of risk because of the variations in the nature and complexity of the procedures they perform. In some circumstances, volumes of reported cases may be impacted by multiple claims notified in relation to one cause of action.

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 several [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.

Please refer to [Understanding NHS Resolution data](#) guidance for further details on how our Claims database is categorised.

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 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 Claims and Incidents received between financial years '2019/20' and '2023/24' where a never event code had a learning code of "*Wrong Implant/Prosthesis".

Table 2: Number and Cost of Claims Closed between financial years '2019/20' and '2023/24' with a damages payment where a never event code had a learning code of "*Wrong Implant/Prosthesis".

Table 3: Number and Cost of Claims Closed between financial years '2019/20' and '2023/24' with NIL damages paid where a never event code had a learning code of "*Wrong Implant/Prosthesis".

Table 1: Number of Claims and Incidents received between financial years '2019/20' and '2023/24' where a never event code had a learning code of "**Wrong Implant/Prosthesis".

Notified	Y
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Year of Notification	No. of Claims
2019/20	13
2020/21	7
2021/22	8
2022/23	9
2023/24	8
Grand Total	45

Table 2: Number and Cost of Claims Closed between financial years '2019/20' and '2023/24' with a damages payment where a never event code had a learning code of "Wrong Implant/Prosthesis".

ClosedSettled	Y
Claim_Outcome	Damages Paid

Year of Closure ---Member Name	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2019/20					
Blackpool Teaching Hospitals NHS Foundation Trust	#	#	#	#	#
Chesterfield Royal Hospital NHS Foundation Trust	#	#	#	#	#
County Durham and Darlington NHS Foundation Trust	#	#	#	#	#
Liverpool Heart and Chest Hospital NHS Foundation Trust	#	#	#	#	#
London North West University Healthcare NHS Trust	#	#	#	#	#
North Bristol NHS Trust	#	#	#	#	#
North Middlesex University Hospital NHS Trust	#	#	#	#	#
North West Anglia NHS Foundation Trust	#	#	#	#	#
Northampton General Hospital NHS Trust	#	#	#	#	#
Portsmouth Hospitals NHS Trust	#	#	#	#	#
Ramsay Healthcare	#	#	#	#	#
Sherwood Forest Hospitals NHS Foundation Trust	#	#	#	#	#
Somerset NHS Foundation Trust	#	#	#	#	#
The Leeds Teaching Hospitals NHS Trust	#	#	#	#	#
University Hospitals of Derby and Burton NHS Foundation Trust	#	#	#	#	#
2020/21					
Ashford & St Peter's Hospitals NHS Foundation Trust	#	#	#	#	#
Barnsley Hospital NHS Foundation Trust	#	#	#	#	#
Barts Health NHS Trust	#	#	#	#	#
Gateshead Health NHS Foundation Trust	#	#	#	#	#
Liverpool Heart and Chest Hospital NHS Foundation Trust	#	#	#	#	#
Liverpool University Hospitals NHS Foundation Trust	#	#	#	#	#
Mid and South Essex NHS Foundation Trust	#	#	#	#	#
Moorfields Eye Hospital NHS Foundation Trust	#	#	#	#	#
Northern Care Alliance NHS Foundation Trust	#	#	#	#	#
Practice Plus Group	#	#	#	#	#
Royal Cornwall Hospitals NHS Trust	#	#	#	#	#
Royal Free London NHS Foundation Trust	#	#	#	#	#
Royal National Orthopaedic Hospital NHS Trust	#	#	#	#	#
SpaMedica	#	#	#	#	#
Spire Healthcare	#	#	#	#	#
The Royal Orthopaedic Hospital NHS Foundation Trust	#	#	#	#	#
University Hospitals Plymouth NHS Trust	#	#	#	#	#
2021/22					
East Cheshire NHS Trust	#	#	#	#	#
Moorfields Eye Hospital NHS Foundation Trust	#	#	#	#	#
North Bristol NHS Trust	#	#	#	#	#
Royal Free London NHS Foundation Trust	#	#	#	#	#
Royal Surrey County Hospital NHS Foundation Trust (The)	#	#	#	#	#
The Healthcare Management Trust	#	#	#	#	#
University Hospitals Dorset NHS Foundation Trust	#	#	#	#	#
University Hospitals of Leicester NHS Trust	#	#	#	#	#
Walsall Healthcare NHS Trust	#	#	#	#	#
Hull University Teaching Hospitals NHS Trust	#	#	#	#	#
2022/23					
Blackpool Teaching Hospitals NHS Foundation Trust	#	#	#	#	#
Gloucestershire Hospitals NHS Foundation Trust	#	#	#	#	#
Great Western Hospitals NHS Foundation Trust	#	#	#	#	#
Leeds Community Healthcare	#	#	#	#	#
Royal National Orthopaedic Hospital NHS Trust	#	#	#	#	#
Surrey and Sussex Healthcare NHS Trust	#	#	#	#	#
University Hospitals Sussex NHS Foundation Trust	#	#	#	#	#
2023/24					
Northern Lincolnshire & Goole Hospitals NHS Foundation Trust	#	#	#	#	#
Practice Plus Group	#	#	#	#	#
Ramsay Healthcare	#	#	#	#	#
Robert Jones & Agnes Hunt Orthopaedic Hospital NHS Foundation Trust (The)	#	#	#	#	#
Surrey and Sussex Healthcare NHS Trust	#	#	#	#	#
The Healthcare Management Trust	#	#	#	#	#
Walsall Healthcare NHS Trust	#	#	#	#	#
Grand Total	60	2,598,920	316,350	1,742,416	4,657,686

Table 3: Number and Cost of Claims Closed between financial years '2019/20' and '2023/24' with NIL damages paid where a never event code had a learning code of "*Wrong Implant/Prosthesis".

ClosedSettled scheme	Y CNST
Claim_Outcome	Nil Damages

Year of Closure ---Member Name	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2019/20	#	#	#	#	#
Coventry and Warwickshire Partnership NHS Trust	#	#	#	#	#
Oxford University Hospitals NHS Foundation Trust	#	#	#	#	#
Royal United Hospitals Bath NHS Foundation Trust	#	#	#	#	#
2020/21	#	#	#	#	#
Mid and South Essex NHS Foundation Trust	#	#	#	#	#
West Hertfordshire Hospitals NHS Trust	#	#	#	#	#
2022/23	#	#	#	#	#
University Hospitals Birmingham NHS Foundation Trust	#	#	#	#	#
University Hospitals Dorset NHS Foundation Trust	#	#	#	#	#
University Hospitals of Leicester NHS Trust	#	#	#	#	#
2023/24	#	#	#	#	#
Sheffield Teaching Hospitals NHS Foundation Trust	#	#	#	#	#