



Resolution

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February 2025
FOI_6987

The following information was requested on 20 January 2025 and clarified on 5 February 2025:

FOI request 1

Development triangles

I would like to request the following data items and I am happy to provide more context if needed regarding the information request via email.

In a development triangle format, for claims from the CNST, ExRHA, ELS and DH Clinical schemes combined:

- Incurred (split by damages, claimant legal costs and NHSR legal costs)*
- Paid (split by damages, claimant legal costs and NHSR legal costs); and*
- Numbers of reported claims*

If possible, please provide the triangles on a quarterly development basis, otherwise annual development will suffice. We would like to have triangles by the following claims cohorts:

- Financial year of notification; and*
- Financial year of incident.*

The above combinations should create 14 claims triangles.

In addition, can you provide the above triangles for:

- Obstetrics CP/BD specialty lump sum claims only. This should create 14 triangles.*
- Obstetrics CP/BD specialty PPO claims only. This should create 14 triangles.*
- Claims which have settled for costs only, ie the damage part is nil. This should create 10 triangles.*
- Claims which have settled for more than £1m or have a current incurred value of more than £1m. This should create 14 triangles.*

Overall, this should create 66 triangles.

[We sought clarification on 22 January 2025]

I am writing in regards of the 1st FOI request (our ref. FOI_6987). Would you be able to clarify the below points for us?

We are not clear what you mean by development triangle – please would you be able to clarify?

Also, what do you mean by Claims Incurred? Do you mean claims received and the payments paid out already?

Please, note we do not report on open claims as they are subject to change.

Please provide us with the time period you would like the data to cover. We report in complete financial years, i.e., 2015/16 – 2023/24.

Please refer to our publication: [Guidance-note-Understanding-NHS-Resolution-data-updated](#) and a set of codes against which claims are logged: [CNST-Codes.xlsx \(live.com\)](#) (see the three tabs in the spreadsheet).

In terms of the Claims data that we publish please see the following links:

- [Data relating to NHS Resolution claims covering the period 2006/07 and 2023/24:](#)
- [Annual report and accounts 2023/24 \(resolution.nhs.uk\)](#)
- [Annual statistics \(including Factsheet 5\) - NHS Resolution](#)

Your request will be put on hold until we receive the clarification requested above.

[You replied on 5 February 2025]

Thanks for your email.

I appreciate there are a few points of clarification.

Our email probably will be best understood by someone with an actuarial background.

We are asking for standard data that we believe your actuarial teams (ie the team at GAD who help produce the data in the reports below) will already have to hand eg in a development triangle, the rows will be the cohort year eg financial year of notification or incident in our request below. The columns will be how the claims (amounts or numbers) evolve over time eg how many claims were paid one year or even one quarter from the start of the cohort year.

By claims incurred (cumulative) we mean the sum of claims paid plus values of outstanding claims. Again, the concept of incurred claims triangles is one that actuaries will be very familiar with.

We would be grateful for all claims information for the period covering 2006/07 to 2023/24. Information in complete financial years is fine.

If it's helpful, we would be very happy to discuss this request on the phone.

Our Response

We note that the request was for triangles in respect of all clinical schemes ("In a development triangle format, for claims from the CNST, ExRHA, ELS and DH Clinical schemes combined..."). NHS Resolution does not hold the data on this basis.

Any triangles that are held are at individual scheme level (not combined as per the request) and we do not hold any triangle data for ex-RHA.

The triangles that are held, which are not in the format you have requested are considered commercially sensitive. Please see our refusal notice below for the applicable exemption available under the Freedom of Information Act 2000 (FOI) for the refusal of the triangles held.

Refusal Notice for not disclosing the triangles held.

Section 43(2) FOIA (commercial interests)

The requested information contains details which if disclosed, disclosure would be likely to harm the commercial interests of NHSR. This is particularly the case in respect of the commercially sensitive information within the Triangles held, which if disclosed would allow claimants and claimant solicitors to derive how claims patterns operate and putting together with other information, they could derive their own profile of claims success/pattern of lags and average settlements. This would prejudice NHSR's ability to manage and settle claims effectively.

Public Interest Test

The exemption in s. 43(2) of FOIA is subject to a public interest test, meaning that NHSR must balance the public interest in disclosing the information against the public interest in maintaining the exemptions. There is a general public interest in openness and transparency in public sector bodies which can help to maintain public trust.

Having considered the public interest, our decision is to withhold the information. This is because while there is a public interest in understanding liabilities which may arise in NHS care and in understanding how NHSR spends taxpayer funds, and there is a presumption in favour of disclosure, there is nevertheless a strong interest in ensuring NHSR can manage and spend those funds effectively.

In this instance, NHSR has carefully deliberated and taken into account factors including transparency and public accountability. It has balanced these against the possibility of harming NHSR's economic and commercial interests. Having carefully considered and balanced these arguments, NHSR has reached the conclusion that the public interest balances fall in favour of the exemption cited, and consequently the information has been withheld.

We would also reiterate that some of the information requested is publicly available in our published:

- [Annual report and accounts 2023/24 \(resolution.nhs.uk\)](https://www.resolution.nhs.uk/annual-report-and-accounts-2023-24)
- [Annual statistics \(including Factsheet 5\) - NHS Resolution](#) – average costs

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 [Joanne Appleby](#), Deputy 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:

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Water Lane
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