NHS Resolution

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March 2025
FOI_7042

The following information was requested on 12 February 2025:

For the NHSR 20/21, 21/22, 22/23 and 23/24 financial years, in respect of the ***CNST****, please provide a breakdown in a table of:*
1. The number of clinical negligence claims received during the year;
2. The number of claims which are now closed;
3. In respect of the claims identified in 2, please state:
a. The total damages paid
b. The total Claimants costs.
c. The total Defendant costs.

Of the claims identified in 2, please provide another table with the same data fields as the previous one including only those claims which relate to work carried out by organisations in the private sector working for Trusts under an NHS sub-contract. Please add another row in the second table for each year, detailing the total amount later recovered by NHSR from the organisation(s) to which the service was sub-contracted (whether that be from their insurers or otherwise).

Our Response

Please find attached the details of claims for our CNST Scheme. This will relate to NHS Trusts in England not the UK.

NB: 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.

In terms of claims recorded against independent sector healthcare providers treating NHS patients who are members of our indemnity scheme. The numbers are likely to include cases where treatment was in the community, as opposed to on the premises of private providers.

Please note that we do not indemnify **all** independent sector providers and therefore can only answer the questions raised for those organisations that are members of our schemes. Therefore, the volume of claims notified and settled will fluctuate, dependant on the number of independent sector members we indemnify at any point.

Some independent sector providers of care and treatment of NHS patients are members of CNST in their own right and claims against those organisations are shown in tables 4 and 5. No recoveries would be made against those organisations. We would not be able to identify any matters where we have made a recovery against an independent sector provider which is not a member of CNST because we do not have a code which would identify those matters if any existed.

Please note there are a small number of claims not included where a Trust has sub-contracted work to a private hospital, and it is a term of the arrangement that the Trust agrees to accept liability, and we log such cases against the Trust. It is not possible to identify these from our Claims Management System as we do not have a code for them.

We have provided data on CNST claims. For details about the schemes we operate, please refer to our website here: Claims Management - NHS Resolution

Table 1 shows: - Number of CNST Claims and Incidents received between financial years '2020/21' and '2023/24'.

Tables 2 shows: - Number and Cost of CNST Claims Closed (or settled with a periodical payment order) between financial years '2020/21' and '2023/24' with a damages payment. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Table 3 shows: - Number and Cost of CNST Claims Closed between financial years '2020/21' and '2023/24' with **NIL** damages paid.

Table 4 shows: - Number and Cost of CNST Claims Closed (or settled with a periodical payment order) between financial years ‘2020/21’ and ‘2023/24’ with a damages payment relating to Independent Sector Providers. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Table 5 shows: - Number and Cost of CNST Claims Closed between financial years ‘2020/21’ and ‘2023/24’ with **NIL** damages paid relating to Independent Sector Providers.

PPOs
The information disclosed includes damages and costs paid up to the end of the settlement year (in Periodical payment order (PPO) cases) and up to the end of the closure year in non-PPO cases.

PPOs are an agreement between the parties, to pay an initial lump sum and regular future payments (PPO damages) related to the injured party’s ongoing needs, usually care for life i.e., a percentage of the full value of the claim is paid at the point of settlement (lump sum damages) with the balance paid at regular intervals over subsequent years. The information disclosed includes lump sum damages, costs and any PPO damages paid up to the end of the year of settlement. It does not include PPO damages, which have been committed to but due to be paid after the settlement year.

Low Figures
Please note 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.

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/

Freedom of Information Request# 7042
Data correct as at: The end of every financial year

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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.

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Data correct as at: The end of every financial year

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Table 1: Number of CNST Claims and Incidents received between financial years '2020/21' and '2023/24'.

Notified	Y
scheme	CNST

Year of Notification	No. of Claims
2020/21	10,760
2021/22	10,226
2022/23	10,567
2023/24	10,834
Grand Total	**42,387**

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Table 2: Number and Cost of CNST Claims Closed (or settled with a periodical payment order) between financial years '2020/21' and '2023/24' with a damages payment. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Clinical_NonClinical	Clinical
ClosedSettled	Y
scheme	CNST
Claim_Outcome	Damages Paid

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2020/21	6,557	1,169,505,099	102,440,751	370,341,951	1,642,287,802
2021/22	7,339	1,441,425,911	122,279,610	464,167,488	2,027,873,008
2022/23	6,773	1,455,005,947	115,783,496	439,093,918	2,009,883,361
2023/24	6,551	1,472,304,177	114,456,294	445,326,207	2,032,086,678
Grand Total	**27,220**	**5,538,241,134**	**454,960,152**	**1,718,929,564**	**7,712,130,849**

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Table 3: Number and Cost of CNST Claims Closed between financial years '2020/21' and '2023/24' with NIL damages paid.

Clinical_NonClinical	Clinical
ClosedSettled	Y
scheme	CNST
Claim_Outcome	Nil Damages

Year of Closure (Settlement Year for PPOs)	No. of Claims	NHS Legal Costs Paid	Claimant Legal Costs Paid
2020/21	3,925	20,917,055	316,294
2021/22	4,247	26,419,054	608,643
2022/23	4,393	26,472,791	416,880
2023/24	4,214	23,669,518	1,206,389
Grand Total	**16,779**	**97,478,417**	**2,548,205**

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Table 4: Number and Cost of CNST Claims Closed (or settled with a periodical payment order) between financial years '2020/21' and '2023/24' with a damages payment relating to Independent Sector Providers . The data includes the damages and legal costs paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Clinical_NonClinical	Clinical
ClosedSettled	Y
scheme	CNST
Claim_Outcome	Damages Paid
Is ISP	Y

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid
2020/21	177	11,651,171	1,418,960	6,574,179
2021/22	210	16,064,102	2,216,596	9,168,173
2022/23	255	14,607,057	2,126,085	10,815,582
2023/24	231	19,821,555	2,772,021	11,795,195
Grand Total	**873**	**62,143,885**	**8,533,663**	**38,353,129**

Table 5: Number and Cost of CNST Claims Closed between financial years '2020/21' and '2023/24' with NIL damages paid relating to Independent Sector Providers.

Clinical_NonClinical	Clinical
ClosedSettled	Y
scheme	CNST
Claim_Outcome	Nil Damages
Is ISP	Y

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid
2020/21	120	0	338,876	0
2021/22	141	0	373,812	#
2022/23	106	0	362,889	0
2023/24	137	0	566,731	0
Grand Total	**504**	**0**	**1,642,308**	**#**