



Resolution

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FOI_7384

The following information was requested on 13 August 2025:

1/. Data on litigation claims by year for failure to consent in cardiac surgery 2006 to 2024 financial years.

2/. Also, damages paid out yearly and number of successful/unsuccessful claims for failure of consent in cardiac surgery 2006 to 2024.

Our Response

Please find attached the requested information we are able to provide. We only hold claims data for England, not the rest of the UK.

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 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.

For information about our Clinical Negligence Schemes, please visit our website here: [Clinical schemes - NHS Resolution](#).

Please find attached the following tables:

Table 1 shows: - Number of Clinical Claims and Incidents received between financial years 2006/07 and 2024/25 where the Primary Cause is **'Fail To Warn-Informed Consent'** and the Specialty is **'Cardio Surgery'**.

There were no claims between 2006/07 - 2008/09 that met the above criteria.

Table 2 shows: - Number and Damages of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2006/07 and 2024/25 with a damages payment, where the Primary Cause is **'Fail To Warn-Informed Consent'** and the Specialty is **'Cardio Surgery'**. The data includes the damages paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

There were no claims during the financial year 2019/20 that met the above criteria.

Table 3 shows: - Number of Clinical Claims Closed between financial years 2006/07 and 2024/25 with **NIL** damages paid where the Primary Cause is **'Fail To Warn-Informed Consent'** and the Specialty is **'Cardio Surgery'**.

There were no claims during the financial year 2017/18 that met the above criteria.

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

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 [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:

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 Clinical Claims and Incidents received between financial years 2006/07 and 2024/25 where the Primary Cause is 'Fail To Warn-Informed Consent' and the Specialty is 'Cardio Surgery'.

Table 2: Number and Damages of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2006/07 and 2024/25 with a damages payment, where the Primary Cause is 'Fail To Warn-Informed Consent' and the Specialty is 'Cardio Surgery'. The data includes the damages paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Table 3: Number of Clinical Claims Closed between financial years 2006/07 and 2024/25 with NIL damages paid where the Primary Cause is 'Fail To Warn-Informed Consent' and the Specialty is 'Cardio Surgery'.

Table 1: Number of Clinical Claims and Incidents received between financial years 2006/07 and 2024/25 where the Primary Cause is 'Fail To Warn-Informed Consent' and the Specialty is 'Cardio Surgery'.

Notified	Y
Year of Notification	No. of Claims
2009/10	#
2010/11	#
2011/12	#
2012/13	#
2013/14	#
2014/15	#
2015/16	#
2016/17	7
2017/18	#
2018/19	#
2019/20	#
2020/21	8
2021/22	#
2022/23	6
2023/24	5
2024/25	6
Grand Total	60

Table 2: Number and Damages of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2006/07 and 2024/25 with a damages payment, where the Primary Cause is 'Fail To Warn-Informed Consent' and the Specialty is 'Cardio Surgery'. The data includes the damages paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

ClosedSettled	Y
ClaimOutcome	Damages Paid

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid
2006/07	#	#
2007/08	#	#
2008/09	#	#
2009/10	#	#
2010/11	#	#
2011/12	#	#
2012/13	#	#
2013/14	#	#
2014/15	#	#
2015/16	#	#
2016/17	#	#
2017/18	#	#
2018/19	#	#
2020/21	#	#
2021/22	#	#
2022/23	#	#
2023/24	5	136,709
2024/25	#	#
Grand Total	43	20,870,006

Table 3: Number of Clinical Claims Closed between financial years 2006/07 and 2024/25 with NIL damages paid where the Primary Cause is 'Fail To Warn-Informed Consent' and the Specialty is 'Cardio Surgery'.

ClosedSettled	Y
ClaimOutcome	Nil Damages

Year of Closure	No. of Claims
2006/07	#
2007/08	#
2008/09	#
2009/10	#
2010/11	#
2011/12	#
2012/13	#
2013/14	#
2014/15	#
2015/16	#
2016/17	#
2018/19	5
2019/20	#
2020/21	#
2021/22	6
2022/23	#
2023/24	#
2024/25	#
Grand Total	42