



Resolution

8th Floor,
10 South Colonnade
Canary Wharf
London
E14 4PU

Telephone: 020 7811 2700

August 2026
FOI_7974

The following information was requested on 10 July 2026:

In your latest annual report 2025/26 you say that you are supporting the work of David Lock KC. Please provide details of all requests or questions that David Lock KC has to put to NHSR along with your responses or other written information or advice that you have supplied to him

Our Response

Thank you for your request for information relating to:

all requests or questions that David Lock KC has to put to NHSR along with your responses or other written information or advice that you have supplied to him

NHS Resolution holds information falling within the scope of your request. However, we have decided that the information is exempt from disclosure under the Freedom of Information Act 2000 (FOIA).

Exemption Applied

NHS Resolution is relying primarily on:

Section 36(2)(b)(i)

(2) Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act—

Information whose disclosure would, or would be likely to, inhibit the free and frank provision of advice.

Section 36(2)(b)(ii)

(2) Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act—

Information whose disclosure would, or would be likely to, inhibit the free and frank exchange of views for the purposes of deliberation.

Section 36(2)(c)

(2) Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act—

Information whose disclosure would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.

The opinion of the Qualified Person has been obtained in accordance with section 36 of the FOIA and it is their reasonable opinion that disclosure of the requested information would be likely to cause the prejudice identified above.

Why Section 36 Applies

The information requested comprises detailed data and analysis provided by NHS Resolution to support an independent review process. NHS Resolution participates in policy development exercises, reviews and consultations by sharing evidence, analysis, expert assessments and operational insights. Such exercises require participants to engage in candid discussion and provide detailed information to assist informed consideration of complex policy issues.

Disclosure of the requested information would be likely to:

- Inhibit the willingness of NHS Resolution staff and stakeholders to provide full and frank advice, views and analysis in future reviews and policy discussions.
- Reduce the candour with which complex issues are considered and debated.
- Undermine the "safe space" required for the effective development and consideration of policy options before conclusions are reached.
- Prejudice NHS Resolution's ability to participate effectively in future policy reviews and deliberative processes involving other public bodies and stakeholders.
- Create a real risk that information provided to inform policy development could be used outside its original context, discouraging full and open engagement in similar exercises in the future.

The Qualified Person considers that disclosure would be likely to prejudice the effective conduct of public affairs by impairing the ability of public bodies to obtain and exchange candid and robust advice during policy-formulation and review processes.

Public Interest Test

Section 36 is a qualified exemption and therefore NHS Resolution has considered whether the public interest in maintaining the exemption outweighs the public interest in disclosure.

Public Interest Factors Favouring Disclosure

NHS Resolution recognises that disclosure would:

- Promote transparency and accountability in relation to information supplied for a public policy review.
- Enable greater public understanding of the evidence considered during the review process.
- Contribute to informed public debate regarding matters of public interest.
- Improve public confidence in decision-making processes where public sector data has informed policy considerations.

Public Interest Factors Favouring Maintaining the Exemption

NHS Resolution considers there is a stronger public interest in maintaining the exemption because:

- Public authorities must be able to participate in policy reviews and deliberative processes in a candid and effective manner.
 - There is a significant public interest in preserving a safe space in which evidence can be considered, tested, challenged and debated without concern that detailed internal submissions will routinely be disclosed.
 - Disclosure would be likely to inhibit the future free and frank provision of advice and exchange of views between public authorities and stakeholders.
 - There is a strong public interest in ensuring that public bodies can continue to contribute fully to evidence-gathering and review exercises without prejudicing the effectiveness of such processes.
 - Disclosure would be likely to prejudice the effective conduct of public affairs by impairing the quality and completeness of information made available during future policy reviews and deliberative exercises.
 - Significant information concerning NHS Resolution's work, performance, and claims activity is already available through published reports, annual reports, factsheets and other publicly available material. Please see - [Corporate reports and publications - NHS Resolution](#) and [Annual statistics - NHS Resolution](#)
- Disclosure of the requested information would provide limited additional transparency when balanced against the prejudice identified.

Balance of the Public interest test

Having carefully balanced the competing public interests, NHS Resolution has concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure.

The requested information is therefore withheld under section 36(2)(b)(i), section 36(2)(b)(ii) and section 36(2)(c) of the FOIA.

Additional Exemption Applied

NHS Resolution also believes that section 43(2) of the FOIA applies to the withheld information.

Section 43(2) – Commercial Interests

Section 43(2) states:

"Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it)."

Section 43 is a qualified exemption and is therefore subject to the public interest test.

Why Section 43(2) Applies

The information requested comprises detailed exchanges between NHS Resolution and David Lock KC in connection with the ongoing independent review of clinical negligence costs. These exchanges contain detailed evidence, analysis, commentary and strategic information provided by NHS Resolution to assist the review. The information includes, but is not limited to:

- Detailed analysis of the clinical negligence claims environment.
- Claims valuation methodologies and assumptions.
- Information concerning litigation trends and legal costs.
- Detailed modelling and analysis relating to future liabilities, claims volumes and expenditure.
- NHS Resolution's assessments of factors influencing claim outcomes and costs.
- Information relating to negotiation strategies, settlement considerations and claims resolution approaches.
- Analysis of claimant behaviour, legal market trends and wider issues affecting the management of clinical negligence claims.
- Discussions regarding potential options for reform and their likely impacts.

NHS Resolution manages clinical negligence liabilities and claims on behalf of the NHS involving substantial public expenditure. The information supplied to the review was provided to support an ongoing policy review commissioned by the Department of Health and Social Care and forms part of a wider body of evidence currently being considered by David Lock KC.

FOIA disclosure is disclosure to the public at large. If disclosed, the information would provide external parties with detailed insight into NHS Resolution's internal thinking, analytical methodologies, risk assessments, evaluation criteria, negotiating approaches, strategic assumptions and operational considerations concerning the handling and resolution of clinical negligence claims.

NHS Resolution considers that disclosure would be likely to prejudice its commercial interests, and those of the wider NHS, because the information could be used by:

- Claimant representatives and claimant law firms.
- Commercial legal service providers.

- Insurers and reinsurers.
- Litigation funders.
- Expert witness providers.
- Other commercial organisations operating within the clinical negligence sector.

to gain a strategic advantage in negotiations, litigation or claims-related activities. Disclosure would be likely to reduce NHS Resolution's ability to negotiate, litigate and resolve claims effectively and economically, thereby increasing costs ultimately borne by the public purse.

The prejudice identified is neither remote nor speculative. NHS Resolution considers there to be a real and significant risk that disclosure of detailed strategic and analytical material relating to claims management, legal costs, settlement approaches and future liability modelling would provide valuable intelligence to those involved in bringing, defending or funding claims against the NHS.

Although NHS Resolution publishes substantial information regarding its activities, claims performance and annual statistics (referred to above), the information requested contains significantly more detailed analysis, strategic assessments and internal evaluations that are not otherwise available in the public domain.

Public Interest Test

As section 43(2) is a qualified exemption, NHS Resolution has considered whether the public interest in maintaining the exemption outweighs the public interest in disclosure.

Public Interest Factors Favouring Disclosure

NHS Resolution recognises that disclosure would:

- Promote openness and transparency regarding NHS Resolution's contribution to the David Lock KC review.
- Increase public understanding of evidence being considered in relation to clinical negligence reform.
- Support public scrutiny of matters involving significant public expenditure.
- Inform public debate regarding the operation and future direction of the clinical negligence system.
- Enhance accountability for information and analysis provided by public bodies to inform policy development.

Public Interest Factors Favouring Maintaining the Exemption

NHS Resolution considers there is a stronger public interest in maintaining the exemption because:

- There is a significant public interest in protecting NHS Resolution's ability to manage clinical negligence liabilities efficiently and secure value for money on behalf of taxpayers.

- There is a strong public interest in preventing information from being disclosed that could weaken NHS Resolution's position in current or future claims, litigation or negotiations.
- Disclosure would be likely to provide claimant representatives and other market participants with insights into NHS Resolution's strategic thinking, analytical methodologies and claims-handling approaches.
- Any increase in claims costs, legal costs or settlement-related expenditure arising from disclosure would ultimately be borne by public funds intended for healthcare services.
- The review remains ongoing and the information forms part of evidence being considered by David Lock KC before recommendations have been finalised. Disclosure at this stage would risk revealing detailed strategic information before the completion of the review process.
- NHS Resolution already publishes extensive information regarding its work, claims activity, annual performance and financial position through its Annual Reports, Annual Statistics publications and other corporate publications, which provides substantial transparency regarding its functions and performance.

Conclusion

Having carefully balanced the competing public interests, NHS Resolution has concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure.

The requested information is therefore withheld under section 43(2) of the Freedom of Information Act 2000.

For these reasons, NHS Resolution is unable to comply with this request.

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

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