



Resolution

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November 2018
FOI_3470

The following information was requested on 6 September 2018:

- 1) I am interested to know please if you have data on the breakdown of the anaesthesia claims that are referred to in the first graph (2888 claims).*
- 2) Do you have any further breakdown of the nature of those claims, and what I am particularly interested in is knowing how many of those claims were in relation to alleged pain management clinical negligence?*
- 3) Further, if you do have a sub-set knowledge of the pain management related claims could you share with me any further information as to what the underlying root causes were, e.g. failures in consent, failures in needle position with catastrophic neurological injury etc.*
- 4) From my interpretation of your graphical data it would appear that overall clinical negligence claims have reduced since 2012/13. What do you attribute this reduction in claims to? Is this as a consequence of the Get It right first time initiative?*

Our Response

1. Please find attached the response to Question 1. Please note we have suppressed 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(3)(a)(i) of the 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.

In some instances the low numbers of claims (fewer than 5) in each injury or cause 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.

2 to 3 – We are unable to provide this information due to the way claims are recorded on our claims database. We will not be able to identify such specific cases. It might be

helpful to explain that when claims are notified to the NHS Resolution they are categorised against pre-defined cause, injury and speciality codes, and pain management is not one of them. Please see the following link for how data is recorded in the Claims database: [Glossary](#)

4 – The Freedom of Information Act only covers requests for recorded information held by a public authority. Public authorities are not required to create new information in response to FOI requests.

However, please refer to our [Annual Report](#) for information which may be of assistance.

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](#), Head 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

Table 1
Number of anaesthesia claims received in 1995/96 to 2017/18.
Both Successful and Unsuccessful claims are included

Year of notification	Number of Claims *
1995/96	#
1996/97	14
1997/98	18
1998/99	29
1999/00	60
2000/01	64
2001/02	127
2002/03	172
2003/04	151
2004/05	133
2005/06	130
2006/07	115
2007/08	120
2008/09	118
2009/10	141
2010/11	138
2011/12	187
2012/13	190
2013/14	229
2014/15	198
2015/16	191
2016/17	181
2017/18	178
Grand Total	#

Table 2
Number of Successful anaesthesia claims settled in 1996/97 to 2017/18, with sum of all damages paid.
Open and Unsuccessful claims are excluded

Year of Closure (Settlement Year for PPOs)	Number of Claims *	Sum of Total Damages *
1996/97	#	#
1998/99	#	#
1999/00	#	#
2000/01	11	£2,521,000
2001/02	32	£2,552,554
2002/03	64	£3,723,284
2003/04	74	£9,264,126
2004/05	97	£6,108,738
2005/06	79	£5,139,855
2006/07	66	£9,513,171
2007/08	73	£6,096,674
2008/09	96	£31,576,833
2009/10	68	£9,303,400
2010/11	118	£15,672,797
2011/12	95	£10,006,411
2012/13	100	£21,172,611
2013/14	105	£23,233,576
2014/15	113	£7,297,986
2015/16	117	£32,669,412
2016/17	109	£22,274,933
2017/18	141	£46,952,248
Grand Total	1563	£265,215,689

Table 3
Number of Unsuccessful anaesthesia claims closed in 1995/96 to 2017/18.
Open claims are excluded.

Year of Closure (Settlement Year for PPOs)	Number of Claims *
1995/96	#
1996/97	#
1997/98	#
1998/99	#
1999/00	11
2000/01	#
2001/02	13
2002/03	50
2003/04	64
2004/05	73
2005/06	49
2006/07	78
2007/08	54
2008/09	46
2009/10	24
2010/11	37
2011/12	54
2012/13	41
2013/14	61
2014/15	75
2015/16	77
2016/17	61
2017/18	59
Grand Total	942

* Where the number of claims less than 5, or sum of total damages is less than £5,000, shown as #.

Table 4

Number of Successful anaesthesia claims settled in 1996/97 to 2017/18, by Primary Injury.

Open and Unsuccessful claims are excluded

* Where the number of claims is then 5 , or sum of total damages less then £5,000, shown as #

Primary Injury	Number of Claims *	Sum of Total Damages *
Addiction/Dependency	#	#
Adtnl/unnecessary Operation(s)	61	£1,386,020
Amputation - Lower	6	£2,092,793
Amputation - Upper	#	#
Anaesthetic	54	£2,655,208
Anaphylact Shock/Allergic Shock/allergy	31	£4,735,900
Arterial Damage	6	£402,923
Bile Duct Damage	#	#
Bladder Damage	7	£474,755
Blindness	#	#
Bowel Damage/ Dysfunction	#	#
Brain Damage	79	£119,780,996
Bruising/ Extravasation	14	£128,250
Burn(s)	17	£191,548
Cardiac Arrest	30	£5,414,791
Cardiovascular Condition	8	£205,049
Cerebral Palsy	#	#
Compartment Syndrome	5	£261,250
Cosmetic Disfigurement	#	#
Deafness	#	#
Dental Damage	131	£460,685
Developmental Delay	#	#
Dislocation	#	#
Erb's Palsy	#	#

Table 5

Number of Successful anaesthesia claims settled in 1996/97 to 2017/18, by Primary Cause.

Open and Unsuccessful claims are excluded

Primary Cause	Number of Claims *	Sum of Total Damages *
Application Of Excess Force	12	£253,620
Assault, Etc By Hospital Staff	#	#
Bacterial Infection	#	#
Cross Infection	#	#
Delay In Performing Operation	16	£895,276
Diathermy Burns/react. To Prep	8	£77,000
ECT Treatment	#	#
Equipment Malfunction	20	£759,061
Err With Agnt/Dose/Route/Selec	242	£50,327,909
Fail / Delay Treatment	108	£18,323,247
Fail Antenatal Screening	#	#
Fail Mon Dose/rate Syntocinon	#	#
Fail To Act On Abnorm Test Res	#	#
Fail To Carry Out PO Observs.	21	£7,379,354
Fail To Infrm Test Rslts	#	#
Fail To Monitor 1st Stg Labour	#	#
Fail To Monitor 2nd Stg Labour	#	#
Fail To Recog. Complication Of	91	£14,153,762
Fail To Supervise	11	£1,148,201
Fail To Warn-Informed Consent	44	£7,724,570
Fail/Delay Avail Op Thtre	#	#
Fail/Delay Of Avail Emgy Anaes	9	£129,940
Fail/Delay Resus By Paediatric	#	#
Failed Infection Control Policy/Hospital Hygiene	#	#

Table 4

Number of Successful anaesthesia claims settled in 1996/97 to 2017/18, by Primary Injury.

Open and Unsuccessful claims are excluded

* Where the number of claims is then 5 , or sum of total damages less then £5,000, shown as #

Primary Injury	Number of Claims *	Sum of Total Damages *
Fatality	221	£18,724,021
Fistula	#	#
Foot Drop	#	#
Fracture	13	£244,765
Hemiparesis	#	#
Hospital Acquired Infection	#	#
Impotence	#	#
Incontinence	#	#
Infectious Diseases	5	£449,234
Joint Damage	5	£292,775
Learning Difficulties	#	#
Loss Of Baby	#	#
Loss Of Sexual Function	#	#
Lung Disease	#	#
Multiple Disabilities	#	#
Multiple Injuries	#	#
Nerve Damage	98	£11,744,221
Not Specified	#	#
Oedema	#	#
Other	16	£997,879
Other Infection	6	£54,031
Other Visual Problems	20	£657,580
Paraplegia	12	£21,616,312
Partial Paralysis	12	£5,046,446

Table 5

Number of Successful anaesthesia claims settled in 1996/97 to 2017/18, by Primary Cause.

Open and Unsuccessful claims are excluded

Primary Cause	Number of Claims *	Sum of Total Damages *
Failure To Interpret X-Ray	5	£85,800
Failure To Perform Operation	6	£161,027
Failure To Perform Tests	#	#
Failure To X-Ray	#	#
Failure/Delay Diagnosis	40	£23,002,473
Foreign Body Left In Situ	17	£133,487
Improp. Delegation To Junior	7	£138,500
Inadequate Monitoring Intra-Op	68	£24,064,368
Inadequate Nursing Care	66	£22,711,852
Inadqte Monitor In Recov Room	12	£8,899,021
Inapp Use Of Forceps/Ventouse	#	#
Inapprop. Case Selection	#	#
Inappropriate Discharge	#	#
Inappropriate Treatment	79	£9,552,656
Incorrect Injection Site	26	£1,037,598
Infusion Problems	19	£3,585,029
Injured By Another Patient	#	#
Intra-Op Problems	167	£35,321,640
Intubation Problems	98	£8,010,479
Lack Of Assistance/Care	24	£766,738
Lack Of Facilities/Equipment	#	#
Lack Of Pre-Op Evaluation	15	£1,098,246
Medication Errors	136	£7,101,026
MisplacedNaso/OrogastricTubeNotDet	#	#

Table 4

Number of Successful anaesthesia claims settled in 1996/97 to 2017/18, by Primary Injury.

Open and Unsuccessful claims are excluded

* Where the number of claims is then 5 , or sum of total damages less then £5,000, shown as #

Primary Injury	Number of Claims *	Sum of Total Damages *
Perforation	9	£1,009,918
Poor Outcome - Fractures Etc.	8	£361,530
Pressure Sores	44	£978,287
Psychiatric/Psychological Dmge	275	£6,670,586
Reduced Life Expectancy	#	#
Renal Damage/ Failure	#	#
Respiratory Disorder/ Failure	19	£399,907
Scarring	28	£842,437
Spinal Damage	22	£16,916,646
Stroke	9	£8,754,020
Tetraplegia/ Quadraplegia	#	#
Thrombosis/Embolism	#	#
Tissue Damage	7	£169,136
Unknown	#	#
Unnecessary Pain	218	£3,745,036
Vocal Cord Damage	#	#
Grand Total	1563	£265,215,689

Table 5

Number of Successful anaesthesia claims settled in 1996/97 to 2017/18, by Primary Cause.

Open and Unsuccessful claims are excluded

Primary Cause	Number of Claims *	Sum of Total Damages *
Not Specified	#	#
Operator Error	61	£10,667,437
Other	15	£119,850
Perform. Of Op. Not Indicated	6	£227,664
Problem Blood Fluids	#	#
Re-Canalisation	#	#
Retained Instrument Post-Operation	8	£54,842
Self Harm	#	#
Tooth Inj & Patient Posit Prob	39	£119,725
Unexpected Death	13	£1,085,077
Unknown	#	#
Wrong Diagnosis	#	#
Wrong Site Surgery	#	#
Grand Total	1563	£265,215,689