



# Resolution

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FOI\_3499

The following information was requested on 4 October 2018:

*As part of a paper I am going to write I would like to formally ask under the freedom of information act for information on litigation against appendectomies over the last 10 years including amount paid out please and the reasons for as well.*

## Our Response

Although NHS Resolution will hold some information relating to claims such as these, 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 NHS Resolution they are categorised against pre-defined cause, injury and speciality codes, unfortunately appendectomy is not one of these and we would not be able to identify such specific cases. Therefore, while there may be information held in our records, we are not readily able to identify the relevant files by searching the database. To do so would involve a review of all cases to identify which ones relate to claims involving appendectomy. NHS Resolution receives thousands of claims each year.

Therefore, we estimate that the cost of complying with the request in its entirety would exceed the 'appropriate limit'. Section 12(1) of the FOIA is a provision which allows a public authority to refuse to comply with a request for information where the cost of compliance is estimated to exceed a set limit (known as the 'appropriate limit'). The 'appropriate limit' for NHS Resolution is £450. This equates to 18 hours of work at the rate of £25 per hour set out in the 'Fees Regulations'.

We estimate that it would take on average 10 minutes to locate, retrieve and extract the requested information from an individual file. It may therefore be the case that we would be able to examine only 108 files within 18 hours.

In addition, given the complexity of clinical negligence claims and their litigation, it is possible for a single electronic or paper-based file to contain hundreds of documents in a variety of formats.

Please also note even if we were able to carry out a review of 108 random files we may not be able to provide you with the level of detail you require owing to Data Protection grounds.

We would need to suppress low numbers or any information that could possibly lead to the identification of claimants, patients or individuals where disclosure would breach the General Data Protection Regulations.

We could provide you with the number of claims with appendectomy in the Incident Description, between 2008/09 to 2017/18. However this would give a misleading picture as there are a

number of causes for claims and they are settled for a number of multi-factorial reasons and the primary cause and injury may not relate entirely to appendectomy.

Please let us know if you would be interested in this information.

I attach a Glossary (which includes the learning codes) of how data is entered on the claims database.

**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

## Guidance note: Understanding NHS Resolution data

This document is intended provide greater understanding of the claims data held by NHS Resolution and to explain what information may be shared in the public domain.

### How does NHS Resolution record claims data?

NHS Resolution records and extracts data relating to claims and serious incidents that might lead to a claim, using a bespoke electronic claims management system (CMS). Claims and incidents are recorded at the point they are notified to NHS Resolution by members of our indemnity schemes, claimants or claimant solicitors.

Claims and incidents are recorded on CMS using a set of pre-defined descriptions and codes [Please see the attached] which capture:

- The location of the incident.
- The likely cause, based on the currently available information.
- The nature of the injury.
- The clinical specialty or specialties involved

In the case of a birth injury claim CMS may also record any more specific information available relating to possible causes.

A free text incident description field is used to record a brief summary of the claim.

CMS will also capture key dates, including the date of the incident, the date the incident or claim was notified to NHS Resolution), and the date the claim was resolved, either by payment of damages or by the successful defence of a claim without merit.

### What level of data can be shared and extracted?

NHS Resolution will never disclose information which could lead to the identification of individuals involved in incidents and claims. This includes information provided in response to a formal request under the Freedom of Information Act as this information would be freely available in the public domain. NHS Resolution has also developed a framework to allow applications for a more detailed dataset for clinicians who are seeking further information to inform learning or research. The framework is subject to strict controls and criteria, and applications are considered by NHS Resolution's Information Governance Group. More information regarding this can be found in our [Policy for release of information to researchers](#)

The most reliable data extractions will be those using the CMS codes. It is possible to undertake searches against any of the codes described above. Searches for causes or injuries by the incident description field alone may be unreliable because similar incidents will not necessarily have the same free text description within CMS. Therefore searches against incident descriptions alone are likely to be unreliable and NHS Resolution advises against placing reliance on such requests. If you would like advice on how to most accurately gather data on the subject you are interested in, please do not hesitate to contact our [Information Access Manager](#) who will be happy to discuss this with you.

## ***Glossary of terms***

<b>Term</b>	<b>Definition</b>
Cause code	All claims received are categorised against pre-defined cause codes on our database. This will be the main cause(s) of the incident in relation to the claim. A list of these can be found here.
Claimant costs	Legal costs and disbursements paid to claimants and their solicitors.
Clinical claim	A claim for compensation arising from negligent care or treatment.
Damages paid	The amount of compensation paid to date. This may not be the full amount of compensation if further payments are due to be made in the future.
Defence costs	Legal costs and disbursements paid to the defendant NHS organisation's solicitors.
Incident date/year	Date/year that the alleged incident took place. If the allegations span a period of time then the earliest date in the period is used.
Incident description field	A free text field used to record a brief summary of the circumstances leading to the claim.
Injury codes	All claims received are categorised against pre-defined injury codes on our database. This will be the main injuries suffered by the claimant as a result of the incident. A list of these codes can be found here
Location	The location of the incident. For example, inside or outside a building, a specific clinical area or site, non-clinical offices, car park, or other public area
Non-clinical claim	A claim for compensation arising from negligence other than clinical negligence, typically employers' and public liability claims.
Notification date/year	Date/year in which NHS Resolution is notified of the claim.
Periodical payment order (PPO)	A Court order, usually reflecting an agreement between the parties, to pay an initial lump sum and regular future payments covering the injured party's ongoing care needs, usually for life. The amount reserved against the claim will include an estimate of

	the capitalised value of future payments based on the injured party's life expectancy as at the date of settlement
Outstanding damages	Damages attributed to a claim but not yet paid. For PPOs this is the total damages value of the periodical payment element of the future losses.
Specialty	The branch of clinical practice relating to the allegations of negligence.
Settled	A settled outcome for the claimant, either by payment of damages and/or a satisfactory non-monetary resolution of the issues.
Unsuccessful	An unsuccessful outcome for the claimant. The claim failed to meet the legal threshold for a damages payment.
Year of closure/settlement year for PPOs	The financial year the claim was closed or, in the case of an active PPO claim, the financial year damages were agreed. Values for closed PPO claims are recorded in our closed claims data.

### **Anonymising data**

In order to protect the confidentiality of individual patients, we do not give precise figures where the number of claims was fewer than five or where we consider that the data together with other information in the public domain may lead to the possible re-identification of an individual. Such data will be indicated by a specific marker such as an asterisk.

### **How data is usually presented by year**

All categories of data provided by year, unless indicated otherwise, will be in the relevant financial accounting year (April - March). Bear in mind that each yearly dataset may contain fluid data, and also data that spans other years. For example, claims recorded by notification year will include estimated damages values for claims that may not meet the legal threshold for an award of damages and therefore not be paid. Claims recorded by year of resolution may include claims arising from incidents that happened in earlier years.

Payments against an individual claim may span many years - for example, where an interim damages payment is made before final settlement is agreed. Where payment data is provided by the year in which the payment is made, we do not routinely provide the number of claims against which those payments are made. This is to prevent researchers drawing misleading conclusions around the average value of payments, because those claims may also have had payments made in other years. Payment data provided by year of closure will reflect the total payments made against that claim irrespective of the year in which the payment was made.

### **Periodical payments**

PPO claims remain open until the death of the injured party, at which point the claim is closed. However, data relating to open active PPO claims will also appear in our closed claim data based on the settlement year, being the date damages were agreed, and the damages value will include an estimate of the capitalised value of future payments based on the injured party's life expectancy as at the date of settlement.

**Clinical settled below excess claims**

Until April 2001 our principal clinical negligence scheme, the Clinical Negligence Scheme for Trusts (CNST), carried an excess (an amount relating to the first part of any claim for which the member was responsible). Members therefore handled and funded low-value claims in-house. After April 2001 responsibility for handling and funding all claims transferred to NHS Resolution and NHS Resolution now handles all CNST claims regardless of value. Because of this change in the scope of CNST, figures for the notification years preceding 2001/02 are not comparable with those for successive years.

The same issue arises with claims made under the Existing Liabilities Scheme, which have been handled centrally by NHS Resolution since April 2000. Hence the Existing Liabilities Scheme data provided for 2000/2001 and earlier years cannot be compared with later years as it is not compiled on a comparable basis.

**Ranked data**

Where ranked data is provided and any rankings have the same value, all ranks with the same value will be displayed (eg) if the request is to provide the top five injuries by value and the 5<sup>th</sup>, 6<sup>th</sup> and 7<sup>th</sup> ranked injuries all have the same value, we will show the top seven injuries.

We are undertaking to improve data capture to support our NHS Resolution strategy, details of which are available from our website.

<https://resolution.nhs.uk/>

October 2018

## Cause Codes for CNST as at 09/04/2018

Risk Category Name	Scheme	Description
Cause	CNST	Application Of Excess Force
Cause	CNST	Assault, Etc By Hospital Staff
Cause	CNST	Bacterial Infection
Cause	CNST	Birth Defects
Cause	CNST	Clinical Trial
Cause	CNST	Cross Infection
Cause	CNST	Delay In Performing Operation
Cause	CNST	Diathermy Burns/react. To Prep
Cause	CNST	ECT Treatment
Cause	CNST	Equipment Malfunction
Cause	CNST	Err With Agnt/Dose/Route/Selec
Cause	CNST	EscapeSecurePrm byMHPtsTransfPrisoners
Cause	CNST	Fail / Delay Treatment
Cause	CNST	Fail Antenatal Screening
Cause	CNST	Fail Mon Dose/rate Syntocinon
Cause	CNST	Fail To Act On Abnorm Test Res
Cause	CNST	Fail To Carry Out PO Observs.
Cause	CNST	Fail To Correctly Apply Forcep
Cause	CNST	Fail To Diag Pre-Eclampsia
Cause	CNST	Fail To Follow-Up Arrangements
Cause	CNST	Fail To Infrm Test Rslts
Cause	CNST	Fail To Interpret USS
Cause	CNST	Fail To Make Resp To Abnrm FHR
Cause	CNST	Fail To Monitor 1st Stg Labour
Cause	CNST	Fail To Monitor 2nd Stg Labour
Cause	CNST	Fail To Recog. Complication Of
Cause	CNST	Fail To Supervise
Cause	CNST	Fail To Warn-Informed Consent
Cause	CNST	Fail/Delay Admitting To Hosp.
Cause	CNST	Fail/Delay Avail Of SCBU Beds
Cause	CNST	Fail/Delay Avail Op Thtre
Cause	CNST	Fail/Delay Obtain Cord PH
Cause	CNST	Fail/Delay Of Avail Emgy Anaes
Cause	CNST	Fail/Delay Referring To Hosp.
Cause	CNST	Fail/Delay Resus By Paediatric
Cause	CNST	Failed Infection Control Policy/Hospital Hygiene
Cause	CNST	Failed Sterilisation
Cause	CNST	Failure To Interpret X-Ray
Cause	CNST	Failure To Perform Operation
Cause	CNST	Failure To Perform Tests
Cause	CNST	Failure To X-Ray
Cause	CNST	Failure/Delay Diagnosis
Cause	CNST	Forceps Delivery
Cause	CNST	Foreign Body Left In Situ
Cause	CNST	Improp. Delegation To Junior
Cause	CNST	Inadequate Monitoring Intra-Op
Cause	CNST	Inadequate Nursing Care
Cause	CNST	Inadqte Monitor In Recov Room
Cause	CNST	Inapp Use Of Forceps/Ventouse
Cause	CNST	Inapprop. Case Selection
Cause	CNST	Inappropriate Discharge
Cause	CNST	Inappropriate Treatment
Cause	CNST	Inc In Comm By Absc/disch Pat
Cause	CNST	Incorrect Injection Site
Cause	CNST	Infusion Problems
Cause	CNST	InhospMaternalDeathPostPartumHaemorrCS
Cause	CNST	Injured By Another Patient
Cause	CNST	Injury To Others By Patient
Cause	CNST	InPatientSuicide- NonCollapsible Rails
Cause	CNST	Intra-Op Problems
Cause	CNST	IntravAdminMisselecConcentrPotassChlor
Cause	CNST	Intubation Problems
Cause	CNST	Labial Tear
Cause	CNST	Lack Of Assistance/Care
Cause	CNST	Lack Of Facilities/Equipment

Cause	CNST	Lack Of Pre-Op Evaluation
Cause	CNST	Medication Errors
Cause	CNST	Mendelsohn's Syndrome
Cause	CNST	MisplacedNaso/OrogastricTubeNotDet
Cause	CNST	Not Specified
Cause	CNST	Operator Error
Cause	CNST	Other
Cause	CNST	Perform. Of Op. Not Indicated
Cause	CNST	Poor Application Of Plstr Cast
Cause	CNST	Premature Ceasure Of Treatment
Cause	CNST	Problem Blood Fluids
Cause	CNST	Probs With Medical Records
Cause	CNST	Re-Canalisation
Cause	CNST	Removal & Retention Of Organs
Cause	CNST	Repeat Attempt Forcep/Ventouse
Cause	CNST	Retained Instrument Post-Operation
Cause	CNST	Self Harm
Cause	CNST	Sexual Abuse
Cause	CNST	Tooth Inj & Patient Posit Prob
Cause	CNST	Unexpected Death
Cause	CNST	Unknown
Cause	CNST	Unlawful Detention - Mntl Hlth
Cause	CNST	Wrong Application Of Electrode
Cause	CNST	Wrong Diagnosis
Cause	CNST	Wrong Route Admin of Chemotherapy
Cause	CNST	Wrong Site Surgery
Cause	CNST	Perineal Tear-1st,2nd,3rd Deg



**Injury Codes for CNST as at 09/04/2018**

<b>Risk Category Name</b>	<b>Scheme</b>	<b>Description</b>
Injury	CNST	Addiction/Dependency
Injury	CNST	Adtnl/unnecessary Operation(s)
Injury	CNST	Advanced Stage Cancer
Injury	CNST	Amputation - Lower
Injury	CNST	Amputation - Upper
Injury	CNST	Anaesthetic
Injury	CNST	Anal Fissure
Injury	CNST	Anaphylact Shock/Allergic Shock/allergy
Injury	CNST	Aneurysm
Injury	CNST	Arterial Damage
Injury	CNST	Benign Tumour
Injury	CNST	Bile Duct Damage
Injury	CNST	Bladder Damage
Injury	CNST	Blindness
Injury	CNST	Bodily Harm/Murder
Injury	CNST	Bowel Damage/ Dysfunction
Injury	CNST	Brain Damage
Injury	CNST	Bruising/ Extravasation
Injury	CNST	Burn(s)
Injury	CNST	Cancer
Injury	CNST	Cardiac Arrest
Injury	CNST	Cardiovascular Condition
Injury	CNST	Cerebral Palsy
Injury	CNST	Chromosomal Abnormality
Injury	CNST	Chronic Fatigue Syndrome
Injury	CNST	Compartment Syndrome
Injury	CNST	Cosmetic Disfigurement
Injury	CNST	Cystic Growth
Injury	CNST	Deafness
Injury	CNST	Decompression Illness
Injury	CNST	Dental Damage
Injury	CNST	Developmental Delay
Injury	CNST	Dislocation
Injury	CNST	Downs Syndrome
Injury	CNST	Epilepsy
Injury	CNST	Erb's Palsy
Injury	CNST	Failed Sterilization
Injury	CNST	Fatality
Injury	CNST	Fistula
Injury	CNST	Foetal Abnormality
Injury	CNST	Foetal Anti-Convulsant Syndr.
Injury	CNST	Foot Drop
Injury	CNST	Fracture
Injury	CNST	H.I.V.
Injury	CNST	Hemiparesis
Injury	CNST	Hernia
Injury	CNST	Hospital Acquired Infection
Injury	CNST	Incontinence
Injury	CNST	Infectious Diseases
Injury	CNST	Infertility
Injury	CNST	ISO Immunisation
Injury	CNST	Joint Damage
Injury	CNST	Klumpke's Paralysis
Injury	CNST	Learning Difficulties
Injury	CNST	Limb Deformity
Injury	CNST	Liver Damage
Injury	CNST	Liver Transplant
Injury	CNST	Loss Of Baby
Injury	CNST	Loss Of Kidney
Injury	CNST	Loss Of Lung
Injury	CNST	Loss Of Sexual Function
Injury	CNST	Loss Of/Damage To Breast
Injury	CNST	Lung Disease
Injury	CNST	Malignant Tumour
Injury	CNST	Malnutrition
Injury	CNST	Meningitis
Injury	CNST	Multiple Disabilities

Injury	CNST	Multiple Injuries
Injury	CNST	Nerve Damage
Injury	CNST	Not Specified
Injury	CNST	Oedema
Injury	CNST	Osteoporosis
Injury	CNST	Other
Injury	CNST	Other Infection
Injury	CNST	Other Visual Problems
Injury	CNST	Pacemaker Installation
Injury	CNST	Paraplegia
Injury	CNST	Partial Hearing Loss
Injury	CNST	Partial Paralysis
Injury	CNST	Perforation
Injury	CNST	Peritonitis
Injury	CNST	Pierced Ear Drum
Injury	CNST	Poor Outcome - Fractures Etc.
Injury	CNST	Pressure Sores
Injury	CNST	Psychiatric/Psychological Dmge
Injury	CNST	Radiation Exposure
Injury	CNST	Reduced Life Expectancy
Injury	CNST	Removal Of Fallopian Tube
Injury	CNST	Removal Of Testicle
Injury	CNST	Renal Damage/ Failure
Injury	CNST	Respiratory Disorder/ Failure
Injury	CNST	Rupture
Injury	CNST	Scalp Damage
Injury	CNST	Scarring
Injury	CNST	Sexual Abuse
Injury	CNST	Spinabifida
Injury	CNST	Spinal Damage
Injury	CNST	Stillborn
Injury	CNST	Stroke
Injury	CNST	Stunted Growth
Injury	CNST	Swine Flu
Injury	CNST	Tardive Dyskinesia
Injury	CNST	Tendon Damage
Injury	CNST	Tetraplegia/ Quadraplegia
Injury	CNST	Thrombosis/Embolism
Injury	CNST	Thyroid Condition
Injury	CNST	Tissue Damage
Injury	CNST	Tuberculosis
Injury	CNST	Ulcerative Colitis
Injury	CNST	Unknown
Injury	CNST	Unnecessary Pain
Injury	CNST	Viral Infection
Injury	CNST	Vocal Cord Damage
Injury	CNST	Wrongful Birth
Injury	CNST	Impotence
Injury	CNST	Labial Fusion
Injury	CNST	Premature Onset Of Menopause
Injury	CNST	Removal Of Cervix
Injury	CNST	Unwanted Pregnancy

**Specialty Codes for CNST as at 09/04/2018**

<b>Risk Category Name</b>	<b>Scheme</b>	<b>Description</b>
Specialty	CNST	Ambulance
Specialty	CNST	Anaesthesia
Specialty	CNST	Audiological Medicine
Specialty	CNST	Blood Transfusion
Specialty	CNST	Cardio Surgery
Specialty	CNST	Cardiology
Specialty	CNST	Casualty / A & E
Specialty	CNST	Chemical Pathology/ Biochemistry
Specialty	CNST	Chiropody
Specialty	CNST	Comm Mental Servs
Specialty	CNST	Community Medicine/ Public Health
Specialty	CNST	Dentistry
Specialty	CNST	Dermatology
Specialty	CNST	District Nursing
Specialty	CNST	Endocrinology
Specialty	CNST	Forensic Pathology
Specialty	CNST	Gastroenterology
Specialty	CNST	General Medicine
Specialty	CNST	General Practice
Specialty	CNST	General Surgery
Specialty	CNST	Genetics
Specialty	CNST	Genito-Urinary Medicine
Specialty	CNST	Geriatric Medicine
Specialty	CNST	Haematology
Specialty	CNST	Histopathology
Specialty	CNST	HM Prison Medical/dental
Specialty	CNST	Infectious Diseases
Specialty	CNST	Intensive Care Medicine
Specialty	CNST	Microbiology/ Virology
Specialty	CNST	Miscellaneous
Specialty	CNST	Neurology
Specialty	CNST	Neurosurgery
Specialty	CNST	NHS Direct Services
Specialty	CNST	Non-Clinical Staff
Specialty	CNST	Not Specified
Specialty	CNST	Nuclear Medicine
Specialty	CNST	Obstetrics
Specialty	CNST	Occupational Physician
Specialty	CNST	Occupational Therapy
Specialty	CNST	Oncology
Specialty	CNST	Ophthalmology
Specialty	CNST	Oral & Maxillo Facial Surgery
Specialty	CNST	Orthopaedic Surgery
Specialty	CNST	Other
Specialty	CNST	Otorhinolaryngology/ ENT
Specialty	CNST	Paediatric Surgery
Specialty	CNST	Paediatrics
Specialty	CNST	Palliative Medicine
Specialty	CNST	Pharmacy
Specialty	CNST	Physiotherapy
Specialty	CNST	Plastic Surgery
Specialty	CNST	Podiatry
Specialty	CNST	Psychiatry/ Mental Health
Specialty	CNST	Psychology
Specialty	CNST	Radiology
Specialty	CNST	Radiotherapy
Specialty	CNST	Rehabilitation
Specialty	CNST	Renal Medicine
Specialty	CNST	Respiratory Medicine/ Thoracic Medic
Specialty	CNST	Rheumatology
Specialty	CNST	Speech Therapy
Specialty	CNST	Surgical Speciality - Other
Specialty	CNST	Unknown
Specialty	CNST	Urology
Specialty	CNST	Vascular Surgery
Specialty	CNST	Gynaecology