



# Resolution

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November 2018  
FOI\_3527

The following information was requested on 6 November 2018:

*I'd like to please request information related to all claims following the death of a patient on the waiting list for the TAVI procedure from 2013 - present? If published information on individual cases exists, please include information on these cases or links to their location.*

## 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 *TAVI procedure* is not one of these. 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 *deaths from TAVI procedure*. 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 be likely to breach the General Data Protection Regulations.

We could provide you with the number of claims with free text that includes "*death*", "*waiting list*" and "*TAVI*" in the free-text Incident Description field. We may also in some instances have an additional specific record of a patient's date of death which we could use to filter results, but this

information is not always relevant to claims management and therefore it may not always be specifically recorded on our systems, even if the patient has died.

We therefore are concerned that any information disclosed against these search terms (and with or without using the presence of a date of death entry as a search field) is likely to give you an incomplete/misleading picture, as there are often a number of causes for claims and they are settled for a number of multi-factorial reasons. The primary cause and injury recorded on our systems may not relate entirely to *death of a patient on the waiting list for the TAVI procedure*. For instance, our free-text Incident Description field may refer to 'aortic valve replacement' or 'heart surgery' rather than 'TAVI', and synonyms such as 'deceased' or 'died' may be used rather than 'death', etc., which would not be captured by the above search.

However, please let us know if you would nevertheless be interested in information generated through the above search strategy.

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](#), 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