



Resolution

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January 2019
FOI_3587

The following information was requested on 14 January 2019:

How much errors relating to point of care testing have cost the NHS in litigation? I am writing a business case for additional resource to enable an improved quality management system and thought it may be useful to include such data.

Our Response

By point of care testing we understand this to mean medical diagnostic testing which takes place at the patient's bedside/close to the patient using any number of different products/tests.

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 *point of care testing* 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 *point of care testing*. 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 Regulation.

We could provide you with the number of claims with free text that includes “*point of care testing*”, “*bedside testing*” and “*diagnostic testing*” in the free-text Incident Description field (and to provide overall/annualised data about the damages paid/settlement amount, total number of claims per year, etc.), but this information is not always relevant to claims management and therefore it may not always be specifically recorded on our systems.

We therefore are concerned that any information disclosed against these search terms 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 *point of care testing*. Furthermore, a search against “diagnostic testing” may lead to ‘false positive’ results as it would also capture cases where diagnostic testing has taken place away from the point of care (e.g. if material had been sent to a laboratory). This means that unfortunately we may not be able to answer your question completely or accurately.

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:

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Water Lane
Wilmslow
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