



## Resolution

2<sup>nd</sup> Floor  
151 Buckingham Palace Road  
London  
SW1W 9SZ  
**Telephone:** 020 7811 2700

February 2019  
FOI\_3601

The following information was requested on 22 January 2019:

*I would like to submit a Freedom of Information request under the speciality of Oral and Maxillofacial Surgery. I would be most grateful if you could provide me with following information for claims during the period 2007/08 to 2016/17:*

- 1. Number of claims closed per year*
- 2. Number of claims closed that were successful per year*
- 3. Total sum of damages paid (excluding legal costs) per year*
- 4. Total number of cases (throughout the period listed) where the cause was listed as:*
  - Failure or delay in treatment*
  - Intra-operative problem*
  - Failure or delay in diagnosis*
  - Inappropriate treatment*
  - Failure to warn - informed consent issues*
  - Operator error*
- 5. The total sum of damages paid (excluding legal costs) for each of the cases listed in request 4, throughout the period requested.*

### **Our Response**

Please find attached the requested information.

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. We take the view that it would not be fair or lawful (given the sensitive and confidential nature of the information held) to disclose such information, and any disclosure would therefore contravene the first data protection principle.

In some instances the low numbers of claims (fewer than 5) in each 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. Where we are in the territory of such small numbers in

the attached, we have used a '#' symbol in the relevant field. You should still be able to see aggregate/total details for higher level fields containing this data.

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

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(Note: Only requestors chosen Causes shown, hence total is less)

Freedom of Information Request# 3601

Data correct as at: 2019-01-31

Table 1: Number and Cost of Claims for Oral & Maxillo Facial Surgery Closed/Settled with damages paid between 2007/08 and 2016/17

Closed_Settled	Y
Clinical_NonClinical	Clinical
Claim_Outcome	Successful

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	Defence Costs Paid	Claimant Costs Paid	Total Paid
2007/08	16	237,114	125,751	263,060	625,925
2008/09	15	388,600	47,073	184,105	619,779
2009/10	21	353,948	67,154	342,527	763,628
2010/11	32	858,205	212,011	743,736	1,813,952
2011/12	35	1,195,968	116,774	732,670	2,045,412
2012/13	33	342,703	61,224	442,913	846,839
2013/14	52	1,827,115	735,263	3,404,455	5,966,833
2014/15	45	562,554	144,219	849,154	1,555,928
2015/16	58	2,037,105	301,534	1,643,262	3,981,901
2016/17	73	1,990,826	570,293	2,282,173	4,843,292
<b>Grand Total</b>	<b>380</b>	<b>9,794,137</b>	<b>2,381,296</b>	<b>10,888,055</b>	<b>23,063,489</b>

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Data correct as at: 2019-01-31

Table 2: Number of Claims for Oral & Maxillo Facial Surgery Closed without damages paid between 2007/08 and 2016/17

Closed_Settled	Y
Clinical_NonClinical	Clinical
Claim_Outcome	Unsuccessful

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	Defence Costs Paid	Claimant Costs Paid	Total Paid
2007/08	16	0	65,694	0	65,694
2008/09	8	0	5,512	0	5,512
2009/10	12	0	18,171	0	18,171
2010/11	11	0	2,776	0	2,776
2011/12	17	0	16,176	0	16,176
2012/13	23	0	20,782	46	20,828
2013/14	23	0	17,736	0	17,736
2014/15	24	0	37,373	0	37,373
2015/16	34	0	43,621	72	43,693
2016/17	41	0	113,905	4535	118,440
<b>Grand Total</b>	<b>209</b>	<b>0</b>	<b>341,747</b>	<b>4653</b>	<b>346,400</b>

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Data correct as at: 2019-01-31

Table 3: Analysis of Primary Causes for Claims for Oral & Maxillo Facial Surgery Closed/Settled with damages paid between 2007/08 and 2016/17  
(Note: Only requestors chosen Causes shown, hence total is less)

Closed_Settled	Y
Clinical_NonClinical	Clinical
Claim_Outcome	Successful

Year of Closure (Settlement Year for PPOs)	Facial Surgery	Damages Paid	Defence Costs Paid	Claimant Costs Paid	Total Paid
<b>----- Primary Causes</b>					
<b>2007/08</b>					
Fail / Delay Treatment	#	#	#	#	#
Inappropriate Treatment	#	#	#	#	#
Fail To Warn-Informed Consent	#	#	#	#	#
Intra-Op Problems	#	#	#	#	#
<b>2008/09</b>					
Intra-Op Problems	5	201,500	32,944	117,146	351,590
Fail / Delay Treatment	#	#	#	#	#
Operator Error	#	#	#	#	#
Fail To Warn-Informed Consent	#	#	#	#	#
Failure/Delay Diagnosis	#	#	#	#	#
<b>2009/10</b>					
Fail To Warn-Informed Consent	#	#	#	#	#
Intra-Op Problems	#	#	#	#	#
Fail / Delay Treatment	#	#	#	#	#
Failure/Delay Diagnosis	#	#	#	#	#
<b>2010/11</b>					
Fail / Delay Treatment	6	69,750	50,745	141,266	261,761
Fail To Warn-Informed Consent	6	104,231	83,651	153,589	341,471
Intra-Op Problems	5	48,000	10,767	60,994	119,762
Failure/Delay Diagnosis	#	#	#	#	#
Operator Error	#	#	#	#	#
Inappropriate Treatment	#	#	#	#	#
<b>2011/12</b>					
Fail / Delay Treatment	6	354,725	24,768	189,840	569,333
Operator Error	5	16,750	1,830	34,700	53,280
Intra-Op Problems	#	#	#	#	#
Inappropriate Treatment	#	#	#	#	#
Fail To Warn-Informed Consent	#	#	#	#	#
Failure/Delay Diagnosis	#	#	#	#	#
<b>2012/13</b>					
Intra-Op Problems	6	65,000	7,062	97,200	169,262
Fail / Delay Treatment	5	47,505	12,779	96,330	156,614
Operator Error	#	#	#	#	#
Fail To Warn-Informed Consent	#	#	#	#	#
Inappropriate Treatment	#	#	#	#	#
Failure/Delay Diagnosis	#	#	#	#	#
<b>2013/14</b>					
Operator Error	7	48,000	18,834	113,764	180,598
Intra-Op Problems	7	563,500	62,694	256,000	882,194
Inappropriate Treatment	5	81,737	19,336	175,720	276,794
Failure/Delay Diagnosis	5	533,297	535,190	2,238,793	3,307,279
Fail / Delay Treatment	#	#	#	#	#
Fail To Warn-Informed Consent	#	#	#	#	#
<b>2014/15</b>					
Fail / Delay Treatment	9	123,844	10,379	111,284	245,507
Intra-Op Problems	9	118,669	27,242	233,600	379,511
Inappropriate Treatment	7	70,500	48,509	142,750	261,759
Operator Error	5	38,250	8,940	89,402	136,592
Fail To Warn-Informed Consent	5	61,547	33,553	136,000	231,100
<b>2015/16</b>					
Inappropriate Treatment	9	128,537	66,937	235,009	430,483
Intra-Op Problems	9	666,896	62,200	473,578	1,202,674
Fail / Delay Treatment	9	166,569	29,580	183,698	379,847
Fail To Warn-Informed Consent	8	120,500	26,834	184,250	331,584
Operator Error	#	#	#	#	#
Failure/Delay Diagnosis	#	#	#	#	#
<b>2016/17</b>					

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Closed_Settled	Y
Clinical_NonClinical	Clinical
Claim_Outcome	Successful

Year of Closure (Settlement Year for PPOs)						
----- Primary Causes	Facial Surgery	Damages Paid	Defence Costs Paid	Claimant Costs Paid	Total Paid	
Inappropriate Treatment	13	367,719	74,230	221,000	662,948	
Fail To Warn-Informed Consent	12	303,350	79,972	408,522	791,844	
Operator Error	8	254,284	44,930	180,750	479,964	
Fail / Delay Treatment	8	594,148	275,452	764,625	1,634,225	
Intra-Op Problems	#	#	#	#	#	
Failure/Delay Diagnosis	#	#	#	#	#	
<b>Grand Total</b>	<b>251</b>	<b>7,213,146</b>	<b>1,988,057</b>	<b>8,824,718</b>	<b>18,025,921</b>	