



Resolution

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February 2019
FOI_3614

The following information was requested on 4 February 2019:

1. Please disclose the number of successful claims relating to sexual misconduct by NHS staff made in each of the last five calendar years: 2014, 2015, 2016, 2017 and 2018.

For each successful claim, please provide:

- a) amount paid in damages*
- b) amount paid in defence costs*
- c) amount paid in claimant costs*
- d) sum of total amount paid*
- e) date claim first made*
- f) date final claim payment made*
- g) brief details of claim and/or incident description including name of NHS hospital/clinic/premises and whether victim was NHS employee or patient*
- h) date/s of incident/s*

2. Please disclose the number of successful claims relating to sexual harassment by NHS staff made in each of the last five calendar years: 2014, 2015, 2016, 2017 and 2018.

For each successful claim, please provide:

- a) amount paid in damages*
- b) amount paid in defence costs*
- c) amount paid in claimant costs*
- d) sum of total amount paid*
- e) date claim first made*
- f) date final claim payment made*
- g) brief details of claim and/or incident description including name of NHS hospital/clinic/premises and whether victim was NHS employee or patient*
- h) date/s of incident/s*

3. Please disclose the number of successful claims relating to sexual assault by NHS staff made in each of the last five calendar years: 2014, 2015, 2016, 2017 and 2018.

For each successful claim, please provide:

- a) amount paid in damages*
- b) amount paid in defence costs*
- c) amount paid in claimant costs*
- d) sum of total amount paid*
- e) date claim first made*
- f) date final claim payment made*
- g) brief details of claim and/or incident description including name of NHS hospital/clinic/premises and whether victim was NHS employee or patient*
- h) date/s of incident/s*

4. Please disclose the number of successful claims relating to rape by NHS staff made in each of the last five calendar years: 2014, 2015, 2016, 2017 and 2018.

For each successful claim, please provide:

- a) amount paid in damages*
- b) amount paid in defence costs*
- c) amount paid in claimant costs*
- d) sum of total amount paid*
- e) date claim first made*
- f) date final claim payment made*
- g) brief details of claim and/or incident description including name of NHS hospital/clinic/premises and whether victim was NHS employee or patient*
- h) date/s of incident/s*

Our Response

Please find attached the information we are able to provide in relation to sexual abuse and some sexual assault claims. The Department of Health cases relates to historic liabilities of defunct bodies.

By way of advice and assistance (and further to our duties under s. 16 FOIA): Our overarching claims management system (CMS) databases are currently set up to primarily record numerical and pre-defined field-based data, rather than free text (which is contained within the individual case files). We do not have specific coding for: *sexual harassment, sexual assault, sexual misconduct or rape*.

Whilst there are limited free-text/descriptive fields on CMS, these will typically contain specific information about individual patients' cases and the likelihood is that this information will therefore be their 'personal data' (which it would be unfair to disclose – see below) and/or confidential. However, the content of the free-text field in any case will be non-standardised and may comprise information which is about the management of the claim by NHS Resolution, rather than the underlying episode of care itself. NHS Resolution receives over 1,000 cases a year. Assuming (and this is optimistic) that it would take only one minute per case to review the free-text data to establish whether it did contain any information about *sexual harassment, sexual assault, sexual misconduct or rape*, this would exceed 18 hours work and in our view would place a disproportionate burden on NHS Resolution.

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 Freedom of Information 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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Table 1: Number of Claims received between financial years 2013/14 to 2017/18 in relation to sexual misconduct/harassment\abuse [(cause code contains 'sexual abuse') or (cause code contains 'assault' and incident description contains 'sex/ual')]

Notifications Y

No_of_Claims Notification Year	Claimant Group			Grand Total
	Patient	Public	Staff	
2013/14	23	5	#	approx 33
2014/15	30	6	#	approx 41
2015/16	35	8	6	49
2016/17	49	10	#	approx 64
2017/18	33	#	#	approx 43
Grand Total	170	approx 34	approx 26	approx 228

Table 2: Number and Cost of Claims Closed/Settled with damages paid between financial years 2013/14 to 2017/18 in relation to sexual misconduct/harassment/abuse [(cause code contains 'sexual abuse') or (cause code contains 'assault' and incident description contains 'sex/ual')]

Closed_Settled	Y
Claim_Outcome_FOI	Damages Paid

Year of Closure (Settlement Year for PPOs)	No_of_Claims	Damages Paid	Defence Costs Paid	Claimant Costs Paid	Total Paid
Patient					
2013/14	15	325,485	57,174	352,550	735,208
2014/15	7	192,111	42,300	195,045	429,455
2015/16	14	322,837	49,180	210,650	582,667
2016/17	19	605,600	78,639	399,765	1,084,003
2017/18	18	466,500	77,971	472,678	1,017,149
Public					
2013/14	#	#	#	#	#
2015/16	#	#	#	#	#
2016/17	#	#	#	#	#
2017/18	7	96,500	104,214	113,371	314,085
Staff					
2013/14	5	42,689	17,383	77,900	137,972
2014/15	#	#	#	#	#
2017/18	#	#	#	#	#
Grand Total	94	2,203,209	472,255	1,979,290	4,654,754

Table 3: Number of Claims Closed without damages paid between financial years 2013/14 to 2017/18 in relation to sexual misconduct/harassment/abuse [(cause code contains 'sexual abuse') or (cause code contains 'assault' and incident description contains 'sex/ual')]

Closed_Settled	Y
Claim_Outcome_FOI	NIL Damages

Year of Closure (Settlement Year for PPOs)	No_of_Claims	Damages Paid	Defence Costs Paid	Claimant Costs Paid	Total Paid
Patient	32	0	115,395	70	115,465
2013/14	5	0	6,242	70	6,312
2014/15	#	#	#	#	#
2015/16	14	0	43,355	0	43,355
2016/17	8	0	56,856	0	56,856
2017/18	#	#	#	#	#
Public	11	0	12,211	0	12,211
2015/16	#	#	#	#	#
2016/17	6	0	7,918	0	7,918
2017/18	#	#	#	#	#
Staff	#	#	#	#	#
2014/15	#	#	#	#	#
2016/17	#	#	#	#	#
Grand Total	47	0	144,298	70	144,368

Table 4: Analysis of Hospital Trusts for Claims Closed/Settled with damages paid between financial years 2013/14 to 2017/18 in relation to sexual misconduct/harassment/abuse [(cause code contains 'sexual abuse') or (cause code contains 'assault' and incident description contains 'sex/ual')]

Closed_Settled	Y
Clinical_NonClinical	(All)
Claim_Outcome_FOI	Damages Paid

Year of Closure (Settlement Year for PPOs)----- Member Name	No_of_Claims	Damages Paid	Defence Costs Paid	Claimant Costs Paid	Total Paid
Patient	73	1,912,532	305,263	1,630,688	3,848,482
Cambridge University Hospitals NHS Foundation Trust	5	249,000	16,122	120,325	385,447
Department of Health	10	179,600	28,532	145,765	353,897
Aggregated 39 Trusts with claims fewer than 5	58	1,483,932	260,609	1,364,598	3,109,138
Public	14	232,488	139,497	244,121	616,106
Aggregated 10 Trusts with claims fewer than 5	14	232,488	139,497	244,121	616,106
Staff	7	58,189	27,494	104,481	190,165
Aggregated 7 Trusts with fewer than 5 claims each	7	58,189	27,494	104,481	190,165
Grand Total	94	2,203,209	472,255	1,979,290	4,654,754