



# Resolution

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March 2019  
FOI\_3695

The following information was requested on 11 March 2019:

*I would be grateful for your assistance. I am conducting a clinical study into the long-term outcome following surgery for cauda equina syndrome at the Norfolk and Norwich University Hospital.*

*The impression in the spinal surgery community is that the number of claims of negligence related to CES are steadily increasing. This would appear to be both at primary care level (GP's not recognising the condition and referring early enough) and in tertiary care centres (delay to imaging, delayed surgery and "poorly performed" surgery).*

*I would like to make a freedom of information request into the following:*

*1. The annual incidence of claims pertaining to CES. Are you able to look back as far as possible, perhaps over the last 10-20 years to the present time?  
Is there an increasing incidence of claims?*

*2. Who are the claims being taken out against?  
GP's/primary care delay  
Referring/receiving hospital*

*3. What is the nature of the claim?  
Poorly performed surgery?  
Non-resolution of specific symptoms?  
Consenting issues?  
Failure to rapidly access MRI imaging?*

*4. The amount paid to settle the cases out of court or the compensation paid after court proceedings.*

## **Our Response to your specific request**

Although NHS Resolution may 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 *Cauda Equina* 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 *Cauda Equina*. 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 Regulation.

Our claims database does include certain short free-text fields that may hold some of the information you are interested in (typically, this is in the "Incident Description" field). We could provide you with the number of claims with *Cauda Equina* in the Incident Description field. However, this is likely to give an incomplete/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 *Cauda Equina*. This approach would also be reliant on the phrase *Cauda Equina* having been used in the free text field rather than other synonyms or general descriptions of the patient's condition/treatment (such as spinal stenosis). Please let us know if you would be interested in this information.

Please refer to our NHS Resolution leaflet 'Did you know – Cauda Equina Syndrome' the leaflet produced in 2016 [here](#) for some information on this topic.

Additionally, GIRFT recently produced a report. <https://gettingitrightfirsttime.co.uk/wp-content/uploads/2019/01/spinal-surgery-report.pdf> which covered Cauda Equina.

We would not hold information relating to GPs save for those claims that were pursued against both a GP and an NHSR indemnified secondary care provider with an agreed contribution. The Medical Defence Organisations would have the data for Cauda Equina Syndrome claims pursued solely against primary care.

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