



Resolution

2nd Floor
151 Buckingham Palace Road
London
SW1W 9SZ
Telephone: 020 7811 2700

March 2019
FOI_3646

The following information was requested on 25 February 2019:

1. A. *In clinical claims settled by the NHS Resolution (including those settled by its legal representatives) the average claimant legal costs (excluding disbursements and ATE). Please break down your response by damages tranches as follows:*

- a. £0 - £25,000
- b. £25,001- £50,000
- c. £50,001- £75,000
- d. £75,001- £100,000
- e. £100,001 - £250,000
- f. £250,001- £1,000,000
- g. £1,000,000 +

B. In clinical claims settled by the NHS Resolution (including those settled by its legal representatives) the average claimant legal costs (excluding disbursements and ATE) broken down by the damages tranches referred to in question 1 A above and also separated into the following three categories:

- a. *Pre commencement of proceedings;*
- b. *Post commencement of proceedings; and*
- c. *Cases which went to Trial.*

In respect of Question 1A and 1B above, please provide data for years 2014/15, 2015/16, 2016/17, and 2017/18.

2. A. *In clinical claims settled by the NHS Resolution (including those settled by its legal representatives) the average time (years) between the letter of claim and settlement date for successful claims between 2014/15 – 2017/18. Please break down your response by the year in which they were closed, and the damages tranches as follows:*

- a. £0 - £25,000
- b. £25,001- £50,000
- c. £50,001- £75,000
- d. £75,001- £100,000
- e. £100,001 - £250,000
- f. £250,001- £1,000,000
- g. £1,000,000 +

B. In clinical claims settled by the NHS Resolution (including those settled by its legal representatives) the average time (years) between the letter of claim and settlement date for successful claims between 2014/15 – 2017/18. Please break down your response by the year in which they were closed, the damages tranches referred to in Question 2A above and also separated into the following three categories:

- a. *Pre commencement of proceedings;*
- b. *Post commencement of proceedings; and*
- c. *Cases which went to Trial.*

In respect of Question 2A and 2B above Please provide data for years 2014/15, 2015/16, 2016/17, and 2017/18.

Our Response

1A & B – We are unable to provide this information. We cannot answer 1A and 1B because we do not record the separate elements of claimant legal costs, so we cannot exclude disbursements and ATE without reviewing every claim.

We settled over 40,000 claims in the years specified and each claim would need to be reviewed.

Therefore, we estimate that the cost of complying with your 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 (a conservative) 5 minutes to locate, retrieve and extract the requested information from an individual file. It would therefore take approximately 3,000 hours to comply with your request. This exceeds the 18 hour limit.

For the reasons explained above we are unable to comply with this part of your request.

2A & B - Please find attached the requested information. The data presented is for claims closed/settled in 2017/18 regardless of when the trial actually took place.

We have suppressed low figures and provided an approximate total figure 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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NB: Number of claims fewer than 5 (and any associated values, within the same row) are masked with a "#" (in accordance with Data Protection guidelines). Accordingly, some total values may also be approximated to prevent masked values to be deduced through reverse calculation.

[Table 1: Number and Cost of Claims Closed/Settled with damages paid between financial years 2014/15 to 2017/18](#)

Table 1: Number and Cost of Claims Closed/Settled with damages paid between financial years 2014/15 to 2017/18

Year of Closure (Settlement Year for PPOs)	Avg Time to Resolution from LoC (yrs)	No_of_Claims	Avg Claimant Costs
2014/15			
Pre-commencement			
£ 0 - £ 25,000	0.77	5,696	6,267
£ 25,001 - £ 50,000	1.07	481	27,867
£ 50,001 - £ 75,000	1.21	167	34,902
£ 75,001 - £ 100,000	1.40	98	39,800
£ 100,001 - £ 250,000	1.53	127	54,256
£ 250,001 - £ 1,000,000	1.85	33	99,758
£ 1,000,000 +	1.85	#	#
Post-commencement			
£ 0 - £ 25,000	1.51	1,577	19,835
£ 25,001 - £ 50,000	1.77	392	57,967
£ 50,001 - £ 75,000	2.00	194	76,417
£ 75,001 - £ 100,000	2.18	146	84,562
£ 100,001 - £ 250,000	2.21	288	109,628
£ 250,001 - £ 1,000,000	2.82	267	173,454
£ 1,000,000 +	4.49	189	391,829
Trial			
£ 0 - £ 25,000	3.05	35	10,208
£ 50,001 - £ 75,000	2.42	#	#
£ 100,001 - £ 250,000	2.64	#	#
£ 250,001 - £ 1,000,000	2.35	#	#
£ 1,000,000 +	4.46	6	828,725
2015/16			
Pre-commencement			
£ 0 - £ 25,000	0.88	5,673	6,582
£ 25,001 - £ 50,000	1.10	392	32,186
£ 50,001 - £ 75,000	1.32	116	32,866
£ 75,001 - £ 100,000	1.61	78	46,561
£ 100,001 - £ 250,000	1.80	82	53,346
£ 250,001 - £ 1,000,000	1.81	25	93,163
£ 1,000,000 +	2.99	#	#
Post-commencement			
£ 0 - £ 25,000	1.62	1,756	23,215
£ 25,001 - £ 50,000	1.82	446	65,666
£ 50,001 - £ 75,000	1.92	193	81,854
£ 75,001 - £ 100,000	2.22	140	102,959
£ 100,001 - £ 250,000	2.45	300	129,374
£ 250,001 - £ 1,000,000	3.05	258	222,135
£ 1,000,000 +	4.68	177	422,121
Trial			
£ 0 - £ 25,000	2.89	41	10,575
£ 25,001 - £ 50,000	2.96	#	#
£ 50,001 - £ 75,000	2.60	#	#
£ 75,001 - £ 100,000	2.77	#	#
£ 100,001 - £ 250,000	3.15	#	#
£ 250,001 - £ 1,000,000	3.30	8	301,624
£ 1,000,000 +	6.30	#	#
2016/17			
Pre-commencement			
£ 0 - £ 25,000	0.92	5,913	6,117

Table 1: Number and Cost of Claims Closed/Settled with damages paid between financial years 2014/15 to 2017/18

Year of Closure (Settlement Year for PPOs)	Avg Time to Resolution from LoC (yrs)	No_of_Claims	Avg Claimant Costs
£ 25,001 - £ 50,000	1.34	445	28,568
£ 50,001 - £ 75,000	1.46	166	37,548
£ 75,001 - £ 100,000	1.87	109	45,868
£ 100,001 - £ 250,000	1.86	117	63,963
£ 250,001 - £ 1,000,000	2.29	41	121,689
Post-commencement			
£ 0 - £ 25,000	1.87	2,216	23,015
£ 25,001 - £ 50,000	2.05	510	68,852
£ 50,001 - £ 75,000	2.37	279	86,803
£ 75,001 - £ 100,000	2.36	203	99,611
£ 100,001 - £ 250,000	2.63	432	132,466
£ 250,001 - £ 1,000,000	3.18	281	224,876
£ 1,000,000 +	4.50	200	425,732
Trial			
£ 0 - £ 25,000	3.32	65	7,537
£ 25,001 - £ 50,000	4.62	#	#
£ 75,001 - £ 100,000		#	#
£ 100,001 - £ 250,000	3.05	5	221,874
£ 250,001 - £ 1,000,000	2.94	8	524,231
£ 1,000,000 +	3.75	#	#
2017/18			
Pre-commencement			
£ 0 - £ 25,000	1.11	6,309	5,981
£ 25,001 - £ 50,000	1.23	492	27,463
£ 50,001 - £ 75,000	1.42	170	34,015
£ 75,001 - £ 100,000	1.50	87	41,703
£ 100,001 - £ 250,000	1.89	147	58,415
£ 250,001 - £ 1,000,000	2.92	50	113,745
£ 1,000,000 +	2.27	#	#
Post-commencement			
£ 0 - £ 25,000	2.05	2,006	23,258
£ 25,001 - £ 50,000	2.11	493	70,281
£ 50,001 - £ 75,000	2.47	247	90,295
£ 75,001 - £ 100,000	2.45	166	101,513
£ 100,001 - £ 250,000	2.73	382	139,256
£ 250,001 - £ 1,000,000	3.24	324	227,030
£ 1,000,000 +	4.58	256	419,747
Trial			
£ 0 - £ 25,000	3.30	57	14,262
£ 25,001 - £ 50,000	3.18	6	271,801
£ 50,001 - £ 75,000	3.33	#	#
£ 75,001 - £ 100,000	3.38	#	#
£ 100,001 - £ 250,000	3.09	8	404,396
£ 250,001 - £ 1,000,000	3.55	#	#
£ 1,000,000 +	7.18	#	#
Grand Total	1.40	41,615	36,394