



Resolution

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

March 2019
FOI_3653

The following information was requested on 25 February 2019:

Are you able to provide any statistics (for Acute trusts only) along the following lines?:

- 1. No. of new litigations in the last year/5 years?*
- 2. No. related to failure to warn/informed consent in last year/5 years*
- 3. Value of "Failure to Warn" clinical negligence claims closed in last year/5 years (where either commercial settlement or admission of liability)*
- 4. Value of "Failure to Warn" clinical negligence claims closed in last year/5 years (where no damages paid – successfully defended).*

Our Response

Please find attached the requested information.

We have suppressed low numbers 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

TABLE OF CONTENTS

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.

For Acute trusts only:

Q1: No. of new litigations in the last five years.

Q2: No. related to failure to warn/informed consent in last 5 years.

Table 1: Number of Claims received between financial years 2013/14 to 2017/18 for Acute Trusts, where one of the Cause Codes is 'Fail to warn-Informed consent'

For Acute trusts only:

Q3: Value of 'Failure to Warn' clinical negligence claims closed in last five years (whether commercial settlement or admission of liability).

Table 2: Number and Cost of Claims Closed/Settled with damages paid between financial years 2013/14 to 2017/18 for Acute Trusts, where one of the Cause Codes is 'Fail to warn-Informed consent'

For Acute trusts only:

Q4: Value of 'Failure to Warn' clinical negligence claims closed in last five years (where no damages paid - successfully defended).

Table 3: Number of Claims Closed without damages paid between financial years 2013/14 to 2017/18 for Acute Trusts, where one of the Cause Codes is 'Fail to warn-Informed consent'

For Acute trusts only:

Q1: No. of new litigations in the last five years.

Q2: No. related to failure to warn/informed consent in last 5 years.

Table 1: Number of Claims received between financial years 2013/14 to 2017/18 for Acute Trusts, where one of the Cause Codes is 'Fail to warn-Informed consent'

Notifications	Y
Clinical_NonClinical	Clinical
Trust_YN	Y

Notification Year	No_of_Claims
All Other Causes	51,363
2013/14	10,952
2014/15	10,538
2015/16	10,120
2016/17	9,689
2017/18	10,064
Fail To Warn-Informed Consent	2,498
2013/14	419
2014/15	465
2015/16	470
2016/17	549
2017/18	595
Grand Total	53,861

For Acute trusts only:

Q3: Value of 'Failure to Warn' clinical negligence claims closed in last five years (whether commercial settlement or admission of liability).

Table 2: Number and Cost of Claims Closed/Settled with damages paid between financial years 2013/14 to 2017/18 for Acute Trusts, where one of the Cause Codes is 'Fail to warn-Informed consent'

Closed_Settled	Y
Clinical_NonClinical	Clinical
Trust_YN	Y
Claim_Outcome_FOI	Damages Paid
Cause	Fail To Warn-Informed Consent

Year of Closure (Settlement Year for PPOs)	No_of_Claims	Damages Paid	Defence Costs Paid	Claimant Costs Paid	Total Paid
2013/14	137	19,398,773	1,990,156	8,188,950	29,577,879
2014/15	159	12,010,448	1,739,181	8,079,735	21,829,364
2015/16	165	12,644,896	2,134,821	10,471,539	25,251,255
2016/17	212	14,621,980	3,038,385	13,785,807	31,446,172
2017/18	277	31,469,676	3,915,876	16,105,933	51,491,485
Grand Total	950	90,145,773	12,818,418	56,631,964	159,596,155

For Acute trusts only:

Q4: Value of 'Failure to Warn' clinical negligence claims closed in last five years (where no damages paid - successfully defended).

Table 3: Number of Claims Closed without damages paid between financial years 2013/14 to 2017/18 for Acute Trusts, where one of the Cause Codes is 'Fail to warn-Informed consent'

Closed_Settled	Y
Clinical_NonClinical	Clinical
Trust_YN	Y
Claim_Outcome_FOI	NIL Damages
Cause	Fail To Warn-Informed Consent

Year of Closure (Settlement Year for PPOs)	No_of_Claims	Damages Paid	Defence Costs		Claimant Costs	
			Paid	Total Paid	Paid	Total Paid
2013/14	105	0	165,423	174,033	8,610	174,033
2014/15	162	0	594,518	606,559	12,041	606,559
2015/16	156	0	423,601	430,358	6,757	430,358
2016/17	181	0	557,087	598,522	41,435	598,522
2017/18	176	0	756,876	769,798	12,922	769,798
Grand Total	780	0	2,497,505	2,579,270	81,765	2,579,270