



# Resolution

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**Telephone:** 020 7811 2700

July 2019  
FOI\_3806

The following information was requested on 16 June 2019:

1. *No of claims received concerning abortion in general in the last 10 years.*
2. *No of successful claims (closed or settled) concerning abortion in general in the last 10 years.*
3. *No of claims received concerning negligence in the context of abortion in the last 10 years.*
4. *No of successful claims (closed or settled) concerning negligence in the context of abortion in the last 10 years.*
5. *No of negligence claims received concerning abortion and informed consent/failure to warn in the last 10 years.*
6. *No of successful negligence claims (closed or settled) concerning abortion and informed consent/failure to warn in the last 10 years.*

## Our Response

Please can you clarify the distinction between Q1 and Q3? Please can you explain what you mean by the 2 different questions? Please provide your definition of the meaning behind the 2 questions.

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 *abortion* 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 *abortion*. 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.

We could carry out a search using the pre-defined injury code – unwanted pregnancy.

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 *abortion* 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 *abortion*. This approach would also be reliant on the phrase *abortion* having been used in the free text field rather than other synonyms or general descriptions of the patient’s condition/treatment (such as a termination).

Please let us know if you would be interested in this information.

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