



# Resolution

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**Telephone:** 020 7811 2700

August 2019  
FOI\_3897

The following information was requested on 16 July 2019:

1. How many claims has NHSR handled in relation to stroke misdiagnosis/negligence?
2. Of these, what is the average settlement figure for stroke misdiagnosis/negligence claims?
3. How many claims has NHSR handled in relation to sepsis misdiagnosis/negligence?
4. Of these, what is the average settlement figure for sepsis misdiagnosis/negligence claims?

You clarified on 7 August 2019:

*If we can get data from 2016-2017 and 2017-2018 that would be much appreciated.*

## Our Response

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 purely for *sepsis*, but rather we do for stroke. The attached table relates to stroke misdiagnosis.

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) 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 1000s of claims a year. Assuming (and this is optimistic) that it would take only 5 minutes per case to review the free-text data to establish whether it did contain any information about *sepsis*, this would exceed 18 hours work and in our view would place a disproportionate burden on NHS Resolution.

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'.

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.**

Table 1: 1. How many claims has NHSR handled in relation to stroke misdiagnosis/negligence?  
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Closed_Settled	Y
Clinical_NonClinical	(All)
Claim_Outcome_FOI	Damages Paid

Year of Closure (Settlement Year for PPOs)	Total_No_of_Claims	Average of Damages_Paid
2016/17	24	277,935
2017/18	24	310,619
<b>Grand Total</b>	<b>48</b>	<b>294,277</b>