



Resolution

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October 2019
FOI_3993

The following information was requested on 3 September 2019:

- 1. Please state how much you have paid out to NHS Trusts in each of the last five financial years as compensation for drugs/medication that have had to be discarded following a fridge failure?*
- 2. Please provide me with a table covering the combined totals for the last five years which show the five NHS Trusts who have received the most money from you in this time for the loss of drugs due to fridge failure and the number of claims each Trust has had paid in that five year time span for this drug loss reason.*

(Please note that this question relates to when the claims were paid regardless of when the incident took place or when the claim was lodged.)

Our Response

By way of advice and assistance and further to our obligations under s. 16 FOIA, NHS Resolution manages a number of risk-pooling schemes (similar to insurance) for the NHS, one of which is the Property Expenses Scheme (PES). Our PES covers “first party” losses for material damage to buildings and contents from a variety of causes, including fire, theft and water damage. PES also offers business interruption expense cover arising from property damage. For further details about this scheme please click [here](#).

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 *fridge failure* 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 *fridge failure*. 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 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 *fridge failure* 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/or injury may not relate entirely to *fridge failure*. This approach would also be reliant on the phrase *fridge failure* having been used (and spelt correctly) in the free text field rather than other synonyms or general descriptions of the main subject of the claim.

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:

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Water Lane
Wilmslow
Cheshire
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