



# Resolution

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November 2019  
FOI\_4040

The following information was requested on 20 October 2019:

*I would like to request information regarding claims made to Ophthalmology surgery departments / clinicians / services. I am looking at the impact and costs of litigation in Ophthalmology surgery. I would like information from 2008/09 to 2018/19.*

*The following data would be helpful:*

- 1. The total costs and number of claims over the measured from 2008/09 to 2018/19 with a breakdown for each year.*
- 2. The 'top 5 areas' of claims (including due to failure to warn inadequate consent) over this period*
- 3. Number of claims (including due to failure to warn inadequate consent) for each of the top 5 successful areas period*
- 4. The costs of claims (including due to failure to warn inadequate consent) for each of the top 5 successful areas*

## **Our Response**

Please find attached the information held.

We have suppressed low figures 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 FOI 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.

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: Number of Claims received between financial years 2008/9 and 2018/19 under the Specialty "Ophthalmology "](#)

[Table 2: Number and Cost of Claims Closed/Settled with damages paid between financial years 2008/9 and 2018/19 under the Specialty "Ophthalmology "](#)

[Table 3: Analysis of Primary Causes \(Failure to warn-Informed Consent\) for Claims Closed/Settled with damages paid between financial years 2008/9 and 2018/19 under the Specialty "Ophthalmology "](#)

[Table 4: Analysis of Top 5 Primary Causes by Number of Claims for Claims Closed/Settled with damages paid between financial years 2008/9 and 2018/19 under the Specialty "Ophthalmology " broken down by Cause](#)

**Table 1: Number of Claims received between financial years 2008/9 and 2018/19 under the Specialty "Ophthalmology "**

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Notifications	Y
Clinical_NonClinical	(All)

Notification Year	No. of Claims
2008/09	111
2009/10	159
2010/11	178
2011/12	159
2012/13	207
2013/14	242
2014/15	230
2015/16	255
2016/17	271
2017/18	255
2018/19	235
<b>Grand Total</b>	<b>2,302</b>

**Table 2: Number and Cost of Claims Closed/Settled with damages paid between financial years 2008/9 and 2018/19 under the Specialty "Ophthalmology "**

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2008/09	61	7,216,333	608,624	1,721,062	9,546,019
2009/10	84	3,901,880	735,116	2,048,972	6,685,968
2010/11	115	8,712,979	1,170,100	3,721,299	13,604,377
2011/12	89	10,549,479	912,235	3,127,541	14,589,255
2012/13	97	8,649,118	761,006	3,448,268	12,858,391
2013/14	107	8,293,524	674,763	3,277,079	12,245,366
2014/15	127	10,998,611	1,233,584	5,820,511	18,052,705
2015/16	120	7,337,114	901,088	5,107,276	13,345,478
2016/17	160	11,764,803	1,617,535	8,097,647	21,479,985
2017/18	154	14,182,295	1,419,612	6,430,199	22,032,107
2018/19	155	16,120,803	1,656,458	5,989,153	23,766,414
<b>Grand Total</b>	<b>1,269</b>	<b>107,726,938</b>	<b>11,690,120</b>	<b>48,789,007</b>	<b>168,206,066</b>

**Table 3: Analysis of Primary Causes (Failure to warn-Informed Consent) for Claims Closed/Settled with damages paid between financial years 2008/9 and 2018/19 under the Specialty "Ophthalmology "**

Closed_Settled	Y
Clinical_NonClinical	(All)
Claim_Outcome_FOI	Damages Paid

Year of Closure (Settlement Year for PPOs) ----- Primary Causes	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
<b>2008/09</b>	<b>61</b>	<b>7,216,333</b>	<b>608,624</b>	<b>1,721,062</b>	<b>9,546,019</b>
Fail To Warn-Informed Consent	7	125,500	35,442	88,741	249,682
Other Causes	54	7,090,833	573,182	1,632,322	9,296,337
<b>2009/10</b>	<b>84</b>	<b>3,901,880</b>	<b>735,116</b>	<b>2,048,972</b>	<b>6,685,968</b>
Fail To Warn-Informed Consent	6	90,350	42,050	115,550	247,950
Other Causes	78	3,811,530	693,067	1,933,422	6,438,018
<b>2010/11</b>	<b>115</b>	<b>8,712,979</b>	<b>1,170,100</b>	<b>3,721,299</b>	<b>13,604,377</b>
Fail To Warn-Informed Consent	7	379,484	76,173	376,550	832,207
Other Causes	108	8,333,495	1,093,926	3,344,749	12,772,170
<b>2011/12</b>	<b>89</b>	<b>10,549,479</b>	<b>912,235</b>	<b>3,127,541</b>	<b>14,589,255</b>
Fail To Warn-Informed Consent	9	528,795	63,698	261,461	853,954
Other Causes	80	10,020,685	848,537	2,866,080	13,735,302
<b>2012/13</b>	<b>97</b>	<b>8,649,118</b>	<b>761,006</b>	<b>3,448,268</b>	<b>12,858,391</b>
Fail To Warn-Informed Consent	5	512,853	53,925	225,200	791,978
Other Causes	92	8,136,265	707,080	3,223,068	12,066,413
<b>2013/14</b>	<b>107</b>	<b>8,293,524</b>	<b>674,763</b>	<b>3,277,079</b>	<b>12,245,366</b>
Fail To Warn-Informed Consent	6	451,000	31,723	172,250	654,973
Other Causes	101	7,842,524	643,040	3,104,829	11,590,393
<b>2014/15</b>	<b>127</b>	<b>10,998,611</b>	<b>1,233,584</b>	<b>5,820,511</b>	<b>18,052,705</b>
Fail To Warn-Informed Consent	8	1,400,851	116,651	527,100	2,044,602
Other Causes	119	9,597,760	1,116,932	5,293,411	16,008,103
<b>2015/16</b>	<b>120</b>	<b>7,337,114</b>	<b>901,088</b>	<b>5,107,276</b>	<b>13,345,478</b>
Fail To Warn-Informed Consent	5	406,000	99,919	557,611	1,063,530
Other Causes	115	6,931,114	801,169	4,549,665	12,281,948
<b>2016/17</b>	<b>160</b>	<b>11,764,803</b>	<b>1,617,535</b>	<b>8,097,647</b>	<b>21,479,985</b>
Fail To Warn-Informed Consent	6	155,000	37,862	214,000	406,862
Other Causes	154	11,609,803	1,579,673	7,883,647	21,073,122
<b>2017/18</b>	<b>154</b>	<b>14,182,295</b>	<b>1,419,612</b>	<b>6,430,199</b>	<b>22,032,107</b>
Fail To Warn-Informed Consent	5	99,764	9,107	65,889	174,760
Other Causes	149	14,082,531	1,410,505	6,364,310	21,857,346
<b>2018/19</b>	<b>155</b>	<b>16,120,803</b>	<b>1,656,458</b>	<b>5,989,153</b>	<b>23,766,414</b>
Fail To Warn-Informed Consent	6	791,485	65,140	295,543	1,152,168
Other Causes	149	15,329,318	1,591,318	5,693,609	22,614,245
<b>Grand Total</b>	<b>1,269</b>	<b>107,726,938</b>	<b>11,690,120</b>	<b>48,789,007</b>	<b>168,206,066</b>

**Table 4: Analysis of Top 5 Primary Causes by Number of Claims for Claims Closed/Settled with damages paid between financial years 2008/9 and 2018/19 under the Specialty "Ophthalmology " broken down by Cause**

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
----- Member Name					
2008/09					
Failure/Delay Diagnosis	11	2,802,510	228,684	522,903	3,554,097
Intra-Op Problems	10	197,500	63,927	174,517	435,944
Fail / Delay Treatment	10	455,900	67,694	275,333	799,926
Fail To Warn-Informed Consent	7	125,500	35,442	88,741	249,682
Inappropriate Treatment	#	#	#	#	#
2009/10					
Fail / Delay Treatment	20	808,101	120,375	433,588	1,362,064
Failure/Delay Diagnosis	16	1,665,750	300,839	539,692	2,506,280
Intra-Op Problems	6	110,750	23,635	114,050	248,435
Fail To Recog. Complication Of	5	160,000	73,343	208,705	442,048
Fail To Warn-Informed Consent	5	85,350	22,061	90,550	197,961
2010/11					
Fail / Delay Treatment	31	1,574,312	217,978	788,665	2,580,955
Failure/Delay Diagnosis	15	2,178,495	287,898	518,837	2,985,229
Intra-Op Problems	12	358,141	83,723	292,864	734,728
Fail To Follow-Up Arrangements	6	1,479,984	179,266	572,626	2,231,876
Fail To Recog. Complication Of	6	483,976	21,477	231,600	737,054
2011/12					
Fail / Delay Treatment	25	2,953,382	237,413	757,483	3,948,277
Failure/Delay Diagnosis	12	4,444,894	347,728	1,125,300	5,917,923
Intra-Op Problems	9	157,259	26,613	153,456	337,329
Fail To Warn-Informed Consent	9	528,795	63,698	261,461	853,954
Delay In Performing Operation	5	79,752	69,228	195,706	344,686
2012/13					
Fail / Delay Treatment	28	1,126,903	257,188	1,143,003	2,527,094
Failure/Delay Diagnosis	17	5,551,638	260,046	1,152,796	6,964,480
Intra-Op Problems	10	562,565	53,855	245,891	862,311
Fail To Recog. Complication Of	6	204,195	29,225	144,100	377,520
Operator Error	#	#	#	#	#
Delay In Performing Operation	#	#	#	#	#
2013/14					
Fail / Delay Treatment	30	2,256,359	245,090	1,027,595	3,529,044
Failure/Delay Diagnosis	18	4,071,588	199,965	1,004,471	5,276,023
Operator Error	9	315,184	72,785	148,322	536,291
Intra-Op Problems	9	383,518	19,150	198,900	601,568
Fail To Warn-Informed Consent	6	451,000	31,723	172,250	654,973
Inappropriate Treatment	6	228,586	16,287	118,250	363,123
2014/15					
Fail / Delay Treatment	31	1,611,123	360,439	1,430,702	3,402,264
Failure/Delay Diagnosis	25	3,220,370	326,773	1,670,037	5,217,180
Inappropriate Treatment	11	373,049	29,897	221,092	624,038
Operator Error	10	86,567	9,908	97,025	193,500
Fail To Follow-Up Arrangements	8	2,666,489	157,844	775,212	3,599,545
Intra-Op Problems	8	142,400	62,345	225,833	430,578
2015/16					
Fail / Delay Treatment	29	2,601,304	290,613	1,271,810	4,163,726
Failure/Delay Diagnosis	16	908,206	172,807	735,791	1,816,804
Operator Error	13	271,739	31,043	237,401	540,183
Intra-Op Problems	12	287,850	54,641	426,465	768,956
Inappropriate Treatment	11	236,600	56,826	439,347	732,773
2016/17					
Fail / Delay Treatment	43	4,726,269	619,509	2,920,542	8,266,320
Failure/Delay Diagnosis	23	2,406,392	299,139	1,582,168	4,287,699
Operator Error	15	797,450	122,092	501,903	1,421,444
Inappropriate Treatment	14	334,925	63,854	398,650	797,429
Intra-Op Problems	13	1,219,865	155,210	872,896	2,247,971
2017/18					
Fail / Delay Treatment	38	7,570,962	460,557	2,054,775	10,086,294
Failure/Delay Diagnosis	28	3,973,885	520,074	2,136,953	6,630,912
Intra-Op Problems	17	248,067	44,651	265,726	558,445
Operator Error	14	211,507	56,895	350,610	619,012
Inappropriate Treatment	12	166,040	52,783	192,723	411,547
2018/19					
Fail / Delay Treatment	38	3,818,183	524,168	1,601,328	5,943,679
Failure/Delay Diagnosis	25	4,346,113	357,285	1,200,964	5,904,362
Fail To Follow-Up Arrangements	17	2,642,872	134,770	785,295	3,562,937
Operator Error	13	228,500	86,034	429,583	744,117
Intra-Op Problems	10	453,066	58,740	337,265	849,071
Inappropriate Treatment	10	249,823	31,068	188,625	469,516