



Resolution

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

November 2019
FOI_4066

The following information was requested on 1 November 2019:

The number of wrongful conception claims filed against the NHS between 01 January 2015 – 31 December 2018

The number of wrongful birth claims filed against the NHS between 01 January 2015 – 31 December 2018

The number of wrongful life claims filed against the NHS between 01 January 2015 – 31 December 2018

The number of wrongful conception claims filed against the NHS between 01 January 2015 – 31 December 2018 that resulted in a trial

The number of wrongful birth claims filed against the NHS between 01 January 2015 – 31 December 2018 that resulted in a trial

The number of wrongful life claims filed against the NHS between 01 January 2015 – 31 December 2018 that resulted in a trial

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 for all of the injuries specified in your request.

We are able to provide some of the requested information as it relates to the following pre-defined injuries:

Wrongful Birth

Please find attached the information we are able to provide.

It should be noted that we define “wrongful birth” as a clinical negligence claim brought by the parents of a child born with birth defects, alleging that negligent treatment or advice deprived them of the opportunity to avoid conception or terminate the pregnancy.

On the issue of data quality, it should be noted that the database was designed primarily as a claims management tool rather than for research purposes, that it records only a limited amount of information, and that a claim may be multi-factoral and/or settled on a number of bases. It is our view, therefore, that the figures provided should be treated with caution and that they should not be relied on as a basis for audit or research.

If you would like to know how data is categorised in our Claims database please see the following link: [Glossary](#)

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 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.

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 the calendar years 2015 and 2018 where one of the Injuries is "Wrongful Birth" broken down by Trial flag](#)

Table 1: Number of Claims received between the calendar years 2015 and 2018 where one of the Injuries is "Wrongful Birth" broken down by Trial flag

Notifications	Y
Clinical_NonClinical	Clinical

Notification Year	No. of Claims
Resulted in a trial	#
No trial	75