



Resolution

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November 2019
FOI_4071

The following information was requested on 4 November 2019:

....I am including threats to the NHS and wondered if there was any data on how many staff have taken legal action against the NHS for bullying, unfair dismissal etc.?

...consequences of staff who report bullying/racism/lack of progression... a national picture might help me to get a point across around staff grievances leading to claims

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 Liability to Third Parties Scheme (LTPS). This covers both employers' liability (i.e. in relation to duties of care owed to employees) and public liability (i.e. in relation to duties of care owed other patients, visitors and other members of the public).

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 *staff grievances leading to claims* 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 *staff grievances leading to claims*. 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.

We have a cause for LTPS claims 'Bullying/Harassment' but we do not capture the precise detail, so we will not be able to distinguish racial discrimination, age, sexual orientation etc., so without looking at every 'Bullying/Harassment' claim we cannot provide what has been requested.

Please let us know if you would be interested in the high level Bullying/Harassment' 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