



Resolution

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November 2019
FOI_4077

The following information was requested on 4 November 2019:

- 1. Number of claims received over the last 5 years for all specialties where one of the following terms is mentioned in the incident report or injury cause code; 'lumbar puncture' OR 'spinal tap' OR 'csf leak' OR 'low csf pressure' OR 'blood patch' OR 'low pressure headache'*
- 2. Number and payment amounts made on successful claims closed (or settled as a Periodic Payments PPO) over the last 5 years for all specialties where one of the following terms is mentioned in the incidence notes or injury cause code; 'lumbar puncture' OR 'spinal tap' OR 'csf leak' OR 'low csf pressure' OR 'blood patch' OR 'low pressure headache'*
- 3. The average payment amount for successful claims with the above search terms in the incident report or injury cause code*
- 4. A list of all locations/hospitals/trusts at which any of the above claim incidence took place*
- 5. A list of all law firms associated with any of the above claims*

Our Response

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 *'lumbar puncture' OR 'spinal tap' OR 'csf leak' OR 'low csf pressure' OR 'blood patch' OR 'low pressure headache'* 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 *'lumbar puncture' OR 'spinal tap' OR 'csf leak' OR 'low csf pressure' OR 'blood patch' OR 'low pressure headache'*. 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 clinical 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 do have an injury code called 'Spinal Damage' and can report on that, but it will include all causes of spinal damage and would necessarily relate to your search criteria. We cannot isolate the six specific causes and injuries that is being requested.

Please let us know if you would be interested in this 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:

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Water Lane
Wilmslow
Cheshire
SK9 5AF