



Resolution

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February 2019
FOI_4260

The following information was requested on 21 January 2020:

I am just reading your 2018/19 annual report and note that orthopaedic claims accounted for 12% of claims by specialty and 4% of claims by value. Can you offer any further breakdown please in terms of average value, total value, costs, claim type? I would use this information for a lecture I am giving to orthopaedic surgeons

Our Response

Please find attached the requested information.

We are unable to provide the breakdown requested 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 Freedom of Information 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. You should still be able to see aggregate/total details for higher level fields containing this data.

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

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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 and Cost of Claims Closed/Settled with damages paid in financial year 2018/19 for Orthopaedic Surgery](#)

[Table 2: Analysis of Primary Causes for Claims Closed/Settled with damages paid in financial year 2018/19 for Orthopaedic Surgery](#)

Table 1: Number and Cost of Claims Closed/Settled with damages paid in financial year 2018/19 for Orthopaedic Surgery

Closed_Settled	Y
Clinical_NonClinical	(All)
Claim_Outcome_FOI	Damages Paid

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2018/19	28	326,373	21,397	218,799	566,568
Grand Total	28	326,373	21,397	218,799	566,568

Table 2: Analysis of Primary Causes for Claims Closed/Settled with damages paid in financial year 2018/19 for Orthopaedic Surgery

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
2018/19	28	326,373	21,397	218,799	566,568
Equipment Malfunction	#	#	#	#	#
Fail / Delay Treatment	5	37,850	3,108	47,100	88,059
Fail To Recog. Complication Of	#	#	#	#	#
Fail To Warn-Informed Consent	#	#	#	#	#
Failure To Perform Operation	#	#	#	#	#
Failure/Delay Diagnosis	#	#	#	#	#
Inadequate Nursing Care	5	43,500	3,680	38,950	86,130
Inappropriate Treatment	#	#	#	#	#
Intra-Op Problems	#	#	#	#	#
Lack Of Assistance/Care	#	#	#	#	#
Operator Error	#	#	#	#	#
Fail To Act On Abnorm Test Res	#	#	#	#	#
Medication Errors	#	#	#	#	#
Diathermy Burns/react. To Prep	#	#	#	#	#
Injured By Another Patient	#	#	#	#	#
Grand Total	28	326,373	21,397	218,799	566,568