



# Resolution

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March 2020  
FOI\_4369

The following information was requested on 14 February 2020:

- 1) *For the individual years 2010-20 please give the amount of money paid out on legal claims relating to childbirth in the NHS.*
- 2) *For the individual years 2010-20 please list the number of claims lodged for fractured babies' skulls incurred during childbirth.*

## Our Response

Please find attached the information we are able to provide in relation to obstetrics claims. Please note the data includes claims settled on a periodical payment basis where there is a guaranteed stream of income until the injured party dies. The paid damages values show only those payments made to date.

By way of advice and assistance (and further to our duties under s. 16 FOIA): Our overarching claims management system (CMS) databases is 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). For example we do not have specific coding for *fractured babies' skulls* during childbirth.

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'.

As you will see from the attached report we have handled over 4,000 cases with a definite 'obstetric' element during the period specified. Assuming (and this is optimistic) that it would take only two minutes per case to review each case to establish whether it did contain any information about *fractured babies' skulls* during childbirth, this would exceed 18 hours work and in our view would place a disproportionate burden on NHS Resolution.

This means that we are unable to provide (such as it may be held in that format) the *number of claims lodged for fractured babies' skulls* incurred during childbirth.

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

Whilst outside the date range you have asked about, we have previously published a thematic analysis of maternity claims over a ten year period: <https://resolution.nhs.uk/wp-content/uploads/2018/11/Ten-years-of-Maternity-Claims-Final-Report-final-2.pdf>, which may be of interest.

We have also previously published a thematic analysis of 5 years cerebral palsy: <https://resolution.nhs.uk/resources/five-years-of-cerebral-palsy-claims/>, which may be of interest.

**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 under the speciality Obstetrics Closed/Settled with damages paid between financial years 2010/11 - 2018/19](#)

**Table 1: Number and Cost of Claims under the speciality Obstetrics Closed/Settled with damages paid between financial years 2010/11 - 2018/19**

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
2010/11	61	790,197	38,637	500,718	1,329,552
2011/12	253	6,124,048	549,552	4,262,438	10,936,038
2012/13	396	15,285,535	1,358,163	10,086,436	26,730,134
2013/14	452	49,211,805	2,978,898	17,280,473	69,471,175
2014/15	531	69,138,473	5,169,835	29,077,489	103,385,797
2015/16	502	122,703,891	7,751,682	37,032,817	167,488,390
2016/17	632	209,026,741	13,266,896	54,386,389	276,680,026
2017/18	657	315,655,697	15,023,256	61,750,150	392,429,103
2018/19	641	440,537,321	17,730,862	65,668,032	523,936,215
<b>Grand Total</b>	<b>4,125</b>	<b>1,228,473,707</b>	<b>63,867,780</b>	<b>280,044,942</b>	<b>1,572,386,429</b>