



Resolution

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FOI_4692

The following information was requested on 22 July 2020:

I am an actuary aiming to measure the historic cost and drivers of clinical negligence claims against the NHS by Specialty.

Please would you be able to provide, in electronic excel file format, data tables with the following fields and metrics:

Table1 Fields and Metrics

Fields:

- Year of Notification, all available.*
- Main Specialty*
- Treatment Specialty*
- Cause/Nature of Claim e.g. failure to diagnose, error*

Metrics:

- Number of Claims Notified during the Year*
- Number of Claims Open*
- Number of Claims Closed*
- Number of Successful Claims*
- Payments Made to Claimants, in £ (split by Damages, Defense Costs, Claimant Costs)*
- Claim Reserves Held for Open Claims, £ (split by Damages, Defense Costs, Claimant Costs)*

If any trusts are excluded from the data, please list.

Table2 Fields and Metrics

Fields:

- Year of Notification, all available.*
- Main Specialty*
- Treatment Specialty*
- Cause/Nature of Claim e.g. failure to diagnose, error*
- Year of Payment*

Metrics:

- Payments Made to Claimants, £ (split by Damages, Defense Costs, Claimant Costs).*

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 we do not have a treatment speciality. 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 the appropriate treatment speciality. NHS Resolution receives thousands of claims each year.

We could provide you with high level data relating to: number of claims received in the relevant financial years; a breakdown by which main specialty, a breakdown by primary cause; a breakdown by primary injury; numbers settled with costs; numbers with no damages paid and numbers currently open. Please let us know if you would be interested in this data.

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.

Further to our obligations to provide advice and assistance, you may find it helpful to review the work of the [Getting It Right First Time team](#) with whom NHS Resolution has been working with to undertake in-depth analysis of our claims data. They have produced a number of [reports](#) from analysing our claims data which has been shared following approval of the confidentiality advisory group to the use of confidential patient information for this purpose.

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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