



Resolution

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October 2020
FOI_4764

The following information was requested on 10 September 2020:

My FOI request relates to the National Health Service Litigation Authority (NHSLA) and NHS Resolution claims that have been submitted in the 20 year period between 10 Sept 2000 and 10 Sept 2020. The purpose of this request is to explore NHSLA/NHSR submissions which involve, include, or are submitted by, or about, Occupational Therapy / Occupational Therapists as a staff group.

If providing the data for the dates above would be at excessive burden to the Freedom of Information Service, I would instead be grateful for details of the last 10000 claims to NHSLA/NHSR.

If providing data for 10000 claims is still not feasible for your FOI office, I will be grateful for the maximum possible that you consider to be feasible, starting from the most recent.

Specifically:

How many incidents occurred?

When was the claim/incident submitted?

Where did the claim/incident occur? You might have this in the form of primary care, secondary care, community, wards, outpatients, emergency department etc. You might also have this by geographical region, which would be helpful to know.

What was the description of each claim? If no detailed description can be provided, what were the most common allegations?

What was the NHSLA/NHS category for each incident? You might have these as examples- medical device/equipment, patient accident, treatment, procedure, disruptive aggressive behaviour etc.

What of these have been classified of causing no harm/minor/moderate/major harm/life threatening harm?

What were the claimant demographics? For example, age, gender, ethnicity

Which have been shared/discussed with the patient and/or family?

Which of these claims have been settled, and which are not settled?

What were the most common reasons for lost claims?

What were the most common reasons for settled claims?

What were the financial costs related to settled, lost, and defended claims? This includes costs incurred and damages paid

What was the grade of Occupational Therapist involved? You might have this according to Student/Band 5,6,7,8 etc.

Our Response

Please find attached the information we are able to provide in respect of Occupational Therapy and Occupational Physician Specialties claims. Please note we are not able to provide all of the information requested.

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 *claimant demographic* 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 *claimant demographic*. NHS Resolution receives thousands of claims each year. We are also unable to provide the following as the information is not captured in this way:

*What were the claimant demographics? For example, age, gender, ethnicity
Which have been shared/discussed with the patient and/or family?
What was the grade of Occupational Therapist involved? You might have this according to Student/Band 5,6,7,8 etc.*

Therefore, the attached report should not be relied on for research purposes.

We have suppressed low figures and are unable to provide the location of the claims 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](#)

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 on 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 on the use of confidential patient information for this purpose.

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

<https://ico.org.uk/>

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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 of Claims received between financial years 2000/01 to 2019/20 relating to the "Occupational Therapy" and "Occupational Physician" Specialties](#)

[Table 2: Number and Cost of Claims Closed/Settled with damages paid between financial years 2000/01 to 2019/20 relating to the "Occupational Therapy" and "Occupational Physician" Specialties](#)

[Table 3: Number and Cost of Claims Closed/Settled with no damages paid between financial years 2000/01 to 2019/20 relating to the "Occupational Therapy" and "Occupational Physician" Specialties](#)

[Table 4: Analysis of Primary Injuries for Successful Claims Closed/Settled between financial years 2000/01 to 2019/20 relating to the "Occupational Therapy" and "Occupational Physician" Specialties](#)

[Table 5: Analysis of Primary Causes for Successful Claims Closed/Settled between financial years 2000/01 to 2019/20 relating to the "Occupational Therapy" and "Occupational Physician" Specialties](#)

Table 1: Number of Claims received between financial years 2000/01 to 2019/20 relating to the "Occupational Therapy" and "Occupational Physician" Specialties

Notifications	Y
Clinical_NonClinical	(All)

Year of Notification	No. of Claims
2000/01	6
2001/02	5
2002/03	#
2003/04	7
2004/05	#
2005/06	6
2006/07	8
2007/08	5
2008/09	#
2009/10	#
2010/11	5
2011/12	6
2012/13	7
2013/14	#
2014/15	5
2015/16	#
2016/17	5
2017/18	5
2018/19	#
2019/20	6
Grand Total	96

Table 2: Number and Cost of Claims Closed/Settled with damages paid between financial years 2000/01 to 2019/20 relating to the "Occupational Therapy" and "Occupational Physician" Specialties

Closed_Settled Y
Clinical_NonClinical (All)
Claim_Outcome_FOI Damages Paid

No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
47	984,185	279,698	747,518	2,011,400

Table 3: Number and Cost of Claims Closed/Settled with no damages paid between financial years 2000/01 to 2019/20 relating to the "Occupational Therapy" and "Occupational Physician" Specialties

Closed_Settled Y
Clinical_NonClinical (All)
Claim_Outcome_FOI NIL Damages

No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
47	0	52,560	350	52,910

Table 4: Analysis of Primary Injuries for Successful Claims Closed/Settled between financial years 2000/01 to 2019/20 relating to the "Occupational Therapy" and "Occupational Physician" Specialties

Closed_Settled	Y
Clinical_NonClinical	(All)
Claim_Outcome_FOI	Damages Paid

Primary Injuries	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Adtnl/unnecessary Operation(s)	#	#	#	#	#
Fatality	#	#	#	#	#
Nerve Damage	#	#	#	#	#
Other	#	#	#	#	#
Pressure Sores	#	#	#	#	#
Psychiatric/Psychological Dmge	5	98,552	19,683	48,289	166,524
Scarring	#	#	#	#	#
Unnecessary Pain	10	143,985	51,117	149,785	344,886
Fracture	11	227,694	57,360	121,328	406,381
Osteoporosis	#	#	#	#	#
Perforation	#	#	#	#	#
Tuberculosis	#	#	#	#	#
Tissue Damage	#	#	#	#	#
Multiple Disabilities	#	#	#	#	#
Multiple Injuries	#	#	#	#	#
Rupture	#	#	#	#	#
Dislocation	#	#	#	#	#
Reduced Life Expectancy	#	#	#	#	#
Grand Total	47	984,185	279,698	747,518	2,011,400

Table 5: Analysis of Primary Causes for Successful Claims Closed/Settled between financial years 2000/01 to 2019/20 relating to the "Occupational Therapy" and "Occupational Physician" Specialties

Closed_Settled	Y
Clinical_NonClinical	(All)
Claim_Outcome_FOI	Damages Paid

Primary Causes	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Equipment Malfunction	6	75,542	50,173	65,100	190,814
Fail / Delay Treatment	#	#	#	#	#
Fail To Recog. Complication Of	#	#	#	#	#
Fail To Supervise	#	#	#	#	#
Failure/Delay Diagnosis	#	#	#	#	#
Inadequate Nursing Care	5	131,052	9,411	57,000	197,463
Inappropriate Treatment	#	#	#	#	#
Intra-Op Problems	#	#	#	#	#
Lack Of Assistance/Care	6	107,750	13,802	60,155	181,707
Lack Of Facilities/Equipment	#	#	#	#	#
Other	#	#	#	#	#
Operator Error	#	#	#	#	#
Foreign Body Left In Situ	#	#	#	#	#
Err With Agnt/Dose/Route/Selec	#	#	#	#	#
Fail To Infrm Test RsIts	#	#	#	#	#
Incorrect Injection Site	#	#	#	#	#
Probs With Medical Records	#	#	#	#	#
Sexual Abuse	#	#	#	#	#
Grand Total	47	984,185	279,698	747,518	2,011,400