



Resolution

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October 2020
FOI_4772

The following information was requested on 17 September 2020:

Please could you send me the following information for the financial year 2019-20:

- 1. For Acute NHS Trusts, the number and value of claims successfully settled which had a primary cause code of "Fail to warn - informed consent".*
- 2. For Acute NHS Trusts, the number and value of claims successfully settled which had "Fail to warn - informed consent" as a cause code, regardless of whether it was the primary cause or not.*

Our Response

Please find attached the requested information.

Please note we have suppressed low figures and we are unable to provide you with information about individual cases 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 2000, 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.

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

<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 and Cost of Claims Closed/Settled with damages paid in 2019/20 which had a primary cause code of Fail to warn - informed consent for all Acute Trusts only](#)

[Table 2: Number and Cost of Claims Closed/Settled with damages paid in 2019/20 which had Fail to warn - informed consent as a cause code, regardless of whether it was the primary cause or not for all Acute Trusts only](#)

[Table 3: Number and Cost of Claims Closed/Settled with damages paid in 2019/20 which had a primary cause code of Fail to warn - informed consent for all Acute Trusts only](#)

[Table 4: Number and Cost of Claims Closed/Settled with damages paid in 2019/20 which had Fail to warn - informed consent as a cause code, regardless of whether it was the primary cause or not for all Acute Trusts only](#)

Table 1: Number and Cost of Claims Closed/Settled with damages paid in 2019/20 which had a primary cause code of Fail to warn - informed consent for all Acute Trusts only

Closed_Settled	Y
Clinical_NonClinical	Clinical
Claim_Outcome_FOI	Damages Paid
Cause1L1	Fail To Warn-Informed Consent

Year of Closure (Settlement Year for PPOs) ----- Member Name	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2019/20	270	37,413,750	4,346,559	16,401,492	58,161,800
Grand Total	270	37,413,750	4,346,559	16,401,492	58,161,800

Table 2: Number and Cost of Claims Closed/Settled with damages paid in 2019/20 which had Fail to warn - informed consent as a cause code, regardless of whether it was the primary cause or not for all Acute Trusts only

Closed_Settled	Y
Clinical_NonClinical	Clinical
Claim_Outcome_FOI	Damages Paid

Year of Closure (Settlement Year for PPOs) ----- Member Name	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2019/20	389	51,242,152	6,331,190	22,383,895	79,957,236
Grand Total	389	51,242,152	6,331,190	22,383,895	79,957,236

Table 3: Number and Cost of Claims Closed/Settled with damages paid in 2019/20 which had a primary cause code of Fail to warn - informed consent for all Acute Trusts only

Closed_Settled	Y
Clinical_NonClinical	(All)
Claim_Outcome_FOI	Damages Paid
Cause1L1	Fail To Warn-Informed Consent

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2019/20	270	37,413,750	4,346,559	16,401,492	58,161,800
----- Member Name					
Number of Trusts with fewer than 5 claims: 99	198	31,419,566	3,496,081	13,083,039	47,998,685
South Tyneside and Sunderland NHS Foundation Trust	9	310,600	77,783	409,230	797,613
Doncaster and Bassetlaw Teaching Hospitals NHS Foundation Trust	8	1,784,036	129,609	487,652	2,401,297
Sandwell & West Birmingham Hospitals NHS Trust	6	111,858	42,850	125,250	279,958
Mid and South Essex NHS Foundation Trust	6	180,500	30,469	167,483	378,452
Wrightington, Wigan and Leigh NHS Foundation Trust	6	331,284	63,382	245,689	640,354
Nottingham University Hospitals NHS Trust	6	654,433	86,071	311,239	1,051,742
East Lancashire Hospitals NHS Trust	6	1,332,767	78,152	359,000	1,769,919
County Durham and Darlington NHS Foundation Trust	5	120,500	14,041	129,914	264,455
North Bristol NHS Trust	5	279,000	21,541	125,908	426,449
Maidstone and Tunbridge Wells NHS Trust	5	288,070	68,378	157,005	513,453
Blackpool Teaching Hospitals NHS Foundation Trust	5	220,637	80,582	279,384	580,603
Royal Free London NHS Foundation Trust	5	380,500	157,621	520,700	1,058,821
Grand Total	270	37,413,750	4,346,559	16,401,492	58,161,800

Table 4: Number and Cost of Claims Closed/Settled with damages paid in 2019/20 which had Fail to warn - informed consent as a cause code, regardless of whether it was the primary cause or not for all Acute Trusts only

Closed_Settled	Y
Clinical_NonClinical	(All)
Claim_Outcome_FOI	Damages Paid
Cause1L1	(Multiple Items)

Year of Closure (Settlement Year for PPOs) ----- Member Name	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2019/20	389	51,242,152	6,331,190	22,383,895	79,957,236
Number of Trusts with fewer than 5 claims: 99	223	30,685,236	3,599,699	12,513,272	46,798,207
University Hospitals of North Midlands NHS Trust	12	545042.3	124557.865	294664.42	964264.585
South Tyneside and Sunderland NHS Foundation Trust	10	345600	78964.2	426229.73	850793.93
Mid and South Essex NHS Foundation Trust	9	703222.38	106294.92	306182.97	1115700.27
East Lancashire Hospitals NHS Trust	9	1408903.6	92051.8	433500	1934455.4
Doncaster and Bassetlaw Teaching Hospitals NHS Foundation Trust	9	1810630.4	132043.21	504501.99	2447175.6
Hull University Teaching Hospitals NHS Trust	9	7544441.81	382848.22	1068450	8995740.03
Blackpool Teaching Hospitals NHS Foundation Trust	8	376564.8	138789.3	597883.58	1113237.68
Nottingham University Hospitals NHS Trust	8	766166.26	99404.38	373627.41	1239198.05
Maidstone and Tunbridge Wells NHS Trust	8	973230.59	192117.5	404505	1569853.09
East Suffolk North Essex NHS Foundation Trust	6	63,810	17,820	146,192	227,822
Sandwell & West Birmingham Hospitals NHS Trust	6	111,858	42,850	125,250	279,958
County Durham and Darlington NHS Foundation Trust	6	133,000	20,374	171,534	324,909
The Leeds Teaching Hospitals NHS Trust	6	136250	101381	390500	628131
University Hospitals of Derby and Burton NHS Foundation Trust	6	304125	70392.85	257121.57	631639.42
Wrightington, Wigan and Leigh NHS Foundation Trust	6	331283.61	63381.72	245688.6	640353.93
Royal Free London NHS Foundation Trust	6	429758.05	165652.57	563700	1159110.62
Royal Cornwall Hospitals NHS Trust	6	685098.9	107780.17	460158.5	1253037.57
East Kent Hospitals University NHS Foundation Trust	6	1236296	118811.14	941500	2296607.14
Homerton University Hospital NHS Foundation Trust	5	126500	30589.43	171500	328589.43
North Bristol NHS Trust	5	279000	21540.98	125907.8	426448.78
Pennine Acute Hospitals NHS Trust (The)	5	205000	48537.6	273875	527412.6
Newcastle Upon Tyne Hospitals NHS Foundation Trust (The)	5	277658.3	76273.76	252500	606432.06
Brighton & Sussex University Hospitals NHS Trust	5	436649.88	132639.25	467250	1036539.13
United Lincolnshire Hospitals NHS Trust	5	1,326,826	366,395	868,400	2,561,621
Grand Total	389	51,242,152	6,331,190	22,383,895	79,957,236