



Resolution

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October 2020
FOI_4799

The following information was requested on 5 October 2020:

I would like to know the number of legal claims with 'Cauda Equina' in the Incident Description field for the following years; 2015/2016, 2016/2017, 2017/2018 and 2018/2019. Including data for open, closed, confirmed and potential claims.

Our Response to your specific request

We responded to a similar request from you about Cauda Equina Syndrome (CES) claims on 30 September 2020. Please refer to that response as much of the response still applies.

At the point of receiving the Freedom of Information request it was acknowledged that the request would exceed the 'appropriate limit', as set out in the Freedom of Information Act (FOIA). Our Safety and Learning Team have advised that they would undertake a deep dive data review as part of their ongoing collaborative work on CES.

It is noted that the time to undertake this review will be outside of the FOIA as outlined in our response of 30 September 2020, and that as CES does not have a specific cause code and is not categorized as an injury or specialty and there may be cases that have been missed and have not been considered within this data review. We would advise you interpret the following data with this in mind.

a) The number of reported cases by Incident date of clinical negligence relating to Cauda Equina Syndrome (CES) under all NHS Resolution Indemnity schemes during the last 5 year time frame.

CNST – Clinical Negligence Scheme for Trusts

ELSGP – Existing Liabilities Scheme for General Practice

CNSGP – Clinical Negligence Scheme for General Practice

Year	CNST	ELSGP	CNSGP*	Totals
1/4/15 - 31/3/16	105	8	-	113
1/4/16 - 31/3/17	101	9	-	110
1/4/17 - 31/3/18	52	13	-	65
1/4/18 - 31/3/19	20	6	-	26
1/4/19 - 31/3/20	9	#	10	#
TOTALS	287	#	10	#

*CNSGP commenced on the 1/4/19

b) The number of CES cases that have been settled with damages paid.

c) The total cost of the CES cases settled with damages paid.

d) The total number of CES cases that were settled with nil damages paid and any associated legal costs.

01/04/2015 – 31/03/2020

Claim Status	CNST	ELSGP	CNSGP	Total Costs
Settled with Damages	37	0	0	£13,074,638
Closed Nil Damages	54	5	0	£202,885
Open	196	33	10	-
TOTALS	91 closed	5 closed	0 closed	£13,277,513

e) The number of CES cases that are directly related to primary care in the 5 year period and broken down by cause code.

This table includes all Primary care claims within the 3 Indemnity schemes - 01/04/2015 – 31/03/2020

Primary care cases	Closed cases	Open Cases	Cause Code
50	7	43	x9 - Failure / Delay in referral x41 – Failure / Delay in diagnosis

f) The number of settled with damages CES cases broken down by specialty, cause and injury codes.

Settled with Damages – CNST - 01/04/2015 – 31/03/2020

Specialty	Number of CES Cases	Total Costs	Cause Code	Injury Code
Emergency Medicine	20	£7,945,774	Failure / Delay in Diagnosis / Treatment	Nerve Damage
Orthopaedic Surgery	8	£1,784,952	Failure / Delay in Diagnosis / Treatment	Nerve Damage
Neurology/Neuro Surgery	5	£860,309	Failure / Delay in Diagnosis / Treatment	Nerve Damage
Radiology	#	#	Failure / Delay in Diagnosis / Treatment	Nerve Damage
GP	#	#	Failure / Delay in referral	Nerve Damage

(NB At the time of the deep dive there were no settled with damages claims within ELSGP and CNSGP)

We have suppressed low figures 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.

Please refer to our NHS Resolution leaflet 'Did you know – Cauda Equina Syndrome' the leaflet produced in 2016 [here](#) for some information on this topic.

We have also recently produced an updated version which covers the period from January 2008 to December 2018, please see [here](#). This information will be updated in due course.

Additionally, GIRFT produced a report. <https://gettingitrightfirsttime.co.uk/wp-content/uploads/2019/01/spinal-surgery-report.pdf> which covered Cauda Equina.

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
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