



Resolution

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October 2020
FOI 4811

The following information was requested on 12 October 2020:

The solicitors hourly rates awarded by courts after 1st January 2012 both at first instance and on appeal in relation to detailed assessments of costs for work done for receiving parties during the period 01.01.2009 to date on maternity and other cerebral palsy/brain injury cases against NHS defendants where the damages recovered, either by way of lump sum and/or when capitalised, actually or potentially exceed £5,000,000.

Would you please provide that information setting out in respect of each such Court award of which you are aware or have access to the following details:-

- a. *Court and Judge name;*
- b. *Date of award;*
- c. *Damages recovered;*
- d. *Hourly rates allowed by Grade of fee earner [as graded in the Guide to the Summary Assessment of Costs];*
- e. *The period/s for or in respect of which those hourly rates were awarded; and*
- f. *Receiving parties' solicitors locality band - whether London 1, 2 or 3 or National 1 or 2.*

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 specific code for **Solicitor hourly rate**. 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 relevant to your request. NHS Resolution receives thousands of claims each year.

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 could provide you with the total claimant legal costs for a specific financial year (it would not be broken down into hourly rates). Please let us know if you would be interested in this information.

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

<https://resolution.nhs.uk/wp-content/uploads/2018/10/Guidance-note-Understanding-NHS-Resolution-data-v2.pdf>

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.

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/>