



Resolution

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November 2020
FOI_4827

The following information was requested on 20 October 2020:

Freedom of Information Request - Negligence claims bulk bottle antiseptic Part 1 and Part 2

I would like to obtain specific information regarding any negligence claims related to the use of bulk bottle antiseptic resulting in or contributing to surgical fires and related thermal burns injury (non-chemical) received by NHS Resolution.

1) We are interested in receiving the following information for each year in the period from 2013 to 2019 (please include total and year-by-year breakdown):

- a. The number of negligence claims received by NHS Resolution related to surgical fires that have resulted from the use of bulk bottle antiseptic in the secondary care environment;*
- b. The number of negligence claims related to surgical fires that resulted from the use of bulk bottle antiseptic in the secondary care environment that have been settled (please include a breakdown of those settled in and out of court);*

Freedom of Information Request - Negligence claims bulk bottle antiseptic Part 2

1) continued...

- c. The number of claims related to surgical fires that resulted from the use of bulk bottle antiseptic where payment of damages was made;*
- d. The monetary amount of damages paid by NHS Resolution for claims related to surgical fires that resulted from the use of bulk bottle antiseptic (please include a breakdown of those settled in and out of court);*
- e. Details about the share of negligence claims related to surgical fires due to bulk bottle antiseptic use that resulted in severe consequences for the patients*

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 *use of bulk bottle antiseptic resulting in or contributing to surgical fires and related thermal burns injury* 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 *use of bulk bottle antiseptic resulting in or contributing to surgical fires and related thermal burns injury*. 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 Freedom of Information Act 2000 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
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