



Resolution

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December 2020
FOI_4867

The following information was requested on 30 November 2020:

We are enquiring about any data your organisation may have in relation to the swine flu vaccination programme and in particular:

1/ Data about the quantum of claims made in relation to the swine flu vaccination programme

2/ Any data surrounding injury claims following vaccinations (including associated errors) for the swine flu pandemic and also non-swine flu related claims.

AND

To make the data easier and simpler to define could we ask for:

1/ The number of claims made in relation to swine flu and the value of claims made in total to date broken down if possible to those involving narcolepsy claims and claims for other reasons such as injury at site of vaccination etc.

2/ The number of claims made in the 5 year period to 2020 in relation to alleged errors in the administration of injections (any injection not just swine flu) split into number of claims and value of claims for each of the following :

- a/ errors made by the clinician in drawing the correct amount of injection liquid*
- b/ error in the administration process (resulting in injury such as shoulder injury)*
- c/ errors classified as dilution errors when reconstituting the injection*

Our Response

For information about Covid vaccination please see the following link: -
<https://resolution.nhs.uk/services/claims-management/covid-19-vaccinations/>

Although NHS Resolution may hold some information relating to claims such as what has been requested, 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 *narcolepsy claims or errors made by the clinician in drawing the correct amount of injection liquid or error in the administration process (resulting in injury such as shoulder injury)*

or errors classified as dilution errors when reconstituting the injection 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 *narcolepsy claims or errors made by the clinician in drawing the correct amount of injection liquid or error in the administration process (resulting in injury such as shoulder injury) or errors classified as dilution errors when reconstituting the injection*. 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.

We do have the following injury code: Swine Flu

We also have the following cause code: Incorrect Injection Site

Please find attached the relevant information we are able to provide in respect of the above codes.

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 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](#)

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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Data corrected as at 11/30/2020

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 where Primary Injury is 'Swine Flu' received between financial years 2015/16 - 2019/20

Table 2 : Damages paid for claims where Primary Injury is 'Swine Flu' between financial years 2015/16 - 2019/20

Table 3 : Analysis of Primary Causes for notifications of claims where Primary Cause is 'Incorrect Injection Site' between financial years 2015/16 - 2019/20

Table 4 : Analysis of Primary Injuries for notifications of claims where Primary Cause is 'Incorrect Injection Site' between financial years 2015/16 - 2019/20

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Table 1 :Number of claims where Primary Injury is 'Swine Flu' received between financial years 2015/16 - 2019/20

Notifications	Clinical_NonClinical
Y	Clinical

NHSLA_Notification_Year	Number of Claims
<input type="checkbox"/> 2017/18	★
Swine Flu	★
Total	★

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Table 2 : Damages paid for claims where Primary Injury is 'Swine Flu' between financial years 2015/16 - 2019/20

Closed_Settled	Clinical_NonClinical	Claim_Outcome_FOI
Y	Clinical	Damages Paid

Closure_Year_or_PPOs_Settlement_Year	Damages Paid
2017/18	★
Total	★

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Table 3 : Analysis of Primary Causes for notifications of claims where Primary Cause is 'Incorrect Injection Site' between financial years 2015/16 - 2019/20

Closed_Settled	Clinical_NonClinical
Y	Clinical
N	Clinical

NHSLA_Notification_Year	Number of Claims
<input type="checkbox"/> 2015/16	23
Incorrect Injection Site	23
<input type="checkbox"/> 2016/17	12
Incorrect Injection Site	12
<input type="checkbox"/> 2017/18	15
Incorrect Injection Site	15
<input type="checkbox"/> 2018/19	6
Incorrect Injection Site	6
<input type="checkbox"/> 2019/20	21
Incorrect Injection Site	21
Total	77

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Table 4 : Analysis of Primary Injuries for notifications of claims where Primary Cause is 'Incorrect Injection Site' between financial years 2015/16 - 2019/20

Closed_Settled	Clinical_NonClinical
N	Clinical
Y	Clinical

Injury1L1	Number of Claims
Adtnl/unnecessary Operation(s)	★
Brain Damage	★
Bruising/ Extravasation	★
Burn(s)	★
Cardiac Arrest	★
Compartment Syndrome	★
Nerve Damage	19
Not Specified	★
Oedema	★
Psychiatric/Psychological Dmge	7
Scarring	★
Spinal Damage	★
Tendon Damage	★
Tissue Damage	★
Unnecessary Pain	25
Total	77