



## Resolution

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FOI 4964

The following information was requested on 11 February 2021:

*I would like to make a request under the Freedom of Information Act 2000 asking if you could kindly provide information relating to all settled (NHSLA & NHS Resolution) clinical negligence claims in elective hip and knee surgery between 1st January 2010 and 31st January 2021.*

*Specifically, could you please provide:*

*A brief description of incident details*

*What the outcome was*

*The year that the claim was settled*

*Type of complication*

*Damages paid*

*Legal defence costs incurred.*

### **Our Response**

Thank you for your request. 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 *elective hip and knee Surgery*. We do however have Orthopaedic Surgery as a speciality but that encompasses the treatment of all disorders of the bones, joints, ligaments, tendons and muscles but not specifically *elective hip and knee Surgery*. 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 *elective hip and knee Surgery*. 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.

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

For details of the claims data that we publish please refer to our [Annual Report Statistics](#).

We could provide you with high level data relating to the specialty Orthopaedic Surgery. It could cover number of claims received for the specialty in the relevant financial years; a breakdown by primary injury; a breakdown by primary cause; numbers settled; numbers with no damages paid and numbers currently open. Please let us know if you would be interested in this data.

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 on claims data (on orthopaedic surgery claims). They have produced a [number of reports](#) from analysing our claims data which has been shared following approval of the confidentiality advisory group on 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/>