



Resolution

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FOI_5045

The following information was requested on 28 April 2021:

Utilising the CNST speciality codes; 'Orthopaedic Surgery' and 'Plastic Surgery' please provide the following data for all closed (or active PPO claims) from 2010 to 2020 (classified by year of resolution)

- *Date of Incident*
- *Cause code*
- *Injury code*
- *Incident Location*
- *Value of Legal Costs*
- *Year of closure/ settlement year for PPOs*
- *Whether the claim was successful*
- *Incident description for each claim (as documented in the incident description field)*
- *Total Damages Awarded (including paid and outstanding damages)*

The purpose of this request is to document the hand and wrist pathologies most likely to lead to successful claims. This data will be fed into projects aimed at improving clinical practice and patient safety in hand and wrist surgery moving forward.

Our Response

We only hold claims data for England (our schemes only cover England), not the UK.

Although NHS Resolution may hold some information relating to claims such as what you have requested (England only claims), 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 code for hand and wrist injury or 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 manual review of all cases to identify which ones relate to claims involving for bone cancer. NHS Resolution receives thousands of claims each year.

We have the following specialty codes: Plastic Surgery
Orthopaedic Surgery

We could provide you with high level data relating to the above specialty codes. The report could cover number of claims received for the above specialty in the relevant financial years (e.g. 18/19); a breakdown by primary cause; a breakdown by injury; number of claims settled with associated costs; numbers with no damages paid and numbers currently open. Please let us know if you would be interested in this data.

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 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 would not be able to provide the information in the way you have set out your request.

In the past we have occasionally provided information based on the incident description field. However, this search has proven to be incomplete and provided a misleading picture as there are a number of causes for claims and they are settled for a number of multi-factorial reasons and the primary cause and injury may not relate entirely to what has been entered into the subjective short free-text field. This approach would also be reliant on the precise phrase hand and or wrist surgery having been used (and spelt correctly) in the free text field rather than other synonyms or general descriptions of the patient's condition/treatment. As such we have decided not to carry out searches based on the incident description field as it is very unreliable and does not represent the accurate picture.

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

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 (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 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:

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Water Lane
Wilmslow
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