



Resolution

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FOI_5134

The following information was requested on 29 July 2021:

I would like to request information on number and value of claims over the past 20 years for obstetric brachial plexus palsy (also called Erb's palsy), including trends over time. I would also like information on a per hospital/per region basis. I would also like to request information on details of the claims including what is being claimed for e.g. damages, ongoing care etc.

Our Response

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 *brachial plexus birth palsies* is not one of these. However, we do have an injury code called Erb's Palsy and this is a synonym frequently used for *brachial plexus birth palsies*.

Please find attached the information held. The unusually high number of claims received in 2001/02 can be explained by the fact that in that year NHS Resolution called in all outstanding clinical negligence claims being managed in-house by NHS trusts in England.

These were not new claims notified to NHS trusts in that year but appear as new claims notified to NHS Resolution in year for the reason set out above.

Please note claims notified/received and open are not guaranteed to be settled in the same year and can take many years to be concluded. Claims notified/received in any given year will often relate to incidents that have occurred many years prior. Due to the nature of clinical negligence claims and the level of investigation needed to bring them to a resolution, claims received and notified in a specific year may take years to settle.

Claims recorded against the Department of Health and Social Care (showing as Department of Health) are liabilities arising from defunct NHS organisations which transferred to the Secretary of State for Health and Social Care when those organisations were abolished.

Please note we have suppressed low figures and we are unable to provide you with information about individual cases as we believe that disclosure of information with this level of granularity is exempt under Section 40(2) by virtue of section 40(3A) (a) of the Freedom of Information Act 2000, 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.

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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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.

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Table 2: Number of claims arising from Erb's Palsy closed between 2001/02 – 2020/21 without a damages payment

Table 3: Number of Erb's Palsy claims received between financial years 2001/02 and 2020/21

Table 4: Number of claims arising from Erb's Palsy closed between 2001/02 – 2020/21 with a damages payment by Individual Trust (includes the damages paid to date for any claims settled on a periodical payment order basis)

Table 1: Number and cost of claims arising from Erb's Palsy closed between 2001/02 – 2020/21 with a damages payment (includes the damages paid to date for any claims settled on a periodical payment order basis)

Closed_Settled	Y
Clinical_NonClinical	Clinical
Claim_Outcome_FOI	Damages Paid

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2001/02	36	4,844,684	613,117	1,204,172	6,661,973
2002/03	26	2,681,699	603,741	1,008,145	4,293,584
2003/04	30	2,942,439	658,620	1,065,528	4,666,587
2004/05	44	5,266,135	964,832	1,660,764	7,891,730
2005/06	62	7,955,269	1,486,721	2,606,532	12,048,522
2006/07	41	5,171,276	1,181,145	1,842,020	8,194,441
2007/08	51	7,059,034	1,403,349	2,602,054	11,064,438
2008/09	28	5,530,816	1,002,195	1,864,870	8,397,881
2009/10	31	6,011,329	1,087,467	2,165,015	9,263,810
2010/11	60	10,401,440	2,430,461	4,847,133	17,679,035
2011/12	31	7,130,823	978,890	2,280,603	10,390,316
2012/13	32	9,440,599	1,280,793	3,313,056	14,034,447
2013/14	27	7,676,380	1,000,034	2,573,854	11,250,268
2014/15	24	7,603,960	1,253,803	3,099,922	11,957,686
2015/16	16	4,582,640	644,309	2,089,782	7,316,730
2016/17	23	7,890,536	844,341	3,129,514	11,864,391
2017/18	26	9,516,030	1,114,033	3,494,090	14,124,153
2018/19	25	13,568,747	1,182,769	3,579,177	18,330,693
2019/20	20	12,563,935	993,854	2,994,664	16,552,453
2020/21	23	9,611,649	976,214	3,146,627	13,734,490
Grand Total	656	147,449,418	21,700,687	50,567,523	219,717,628

Table 2: Number of claims arising from Erb's Palsy closed between 2001/02 – 2020/21 without a damages payment

Closed_Settled	Y
Clinical_NonClinical	Clinical
Claim_Outcome_FOI	NIL Damages

Year of Closure	No. of Claims
2001/02	16
2002/03	19
2003/04	24
2004/05	21
2005/06	24
2006/07	9
2007/08	13
2008/09	13
2009/10	8
2010/11	10
2011/12	7
2012/13	14
2013/14	15
2014/15	14
2015/16	16
2016/17	12
2017/18	13
2018/19	10
2019/20	15
2020/21	#

Table 3: Number of Erb's Palsy claims received between financial years 2001/02 and 2020/21

Notifications	
Clinical_NonClinical	Y Clinical
Year of Notification	No. of Claims
2001/02	105
2002/03	50
2003/04	40
2004/05	28
2005/06	38
2006/07	41
2007/08	37
2008/09	30
2009/10	25
2010/11	28
2011/12	28
2012/13	47
2013/14	55
2014/15	34
2015/16	41
2016/17	32
2017/18	27
2018/19	37
2019/20	22
2020/21	26
Grand Total	771

Table 4: Number of claims arising from Erb's Palsy closed between 2001/02 – 2020/21 with a damages payment by Individual Trust (includes the damages paid to date for any claims settled on a periodical payment order basis)

Closed_Settled	Y
Clinical_NonClinical	Clinical
Claim_Outcome_FOI	Damages Paid

Member Name	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Number of members with fewer than 5 claims: 148	300	61,025,634	9,109,070	20,531,163	90,665,867
Department of Health	24	9,779,595	1,135,051	3,244,696	14,159,342
Liverpool Women's Hospital NHS Foundation Trust	15	4,061,922	628,873	1,479,972	6,170,767
West Midlands Strategic Health Authority	13	3,133,526	601,089	1,287,738	5,022,353
Barking, Havering and Redbridge University Hospitals NHS Foundation Trust	13	3,566,869	442,506	1,022,355	5,031,730
Croydon Health Services NHS Trust	12	2,839,438	405,241	949,507	4,194,186
Sheffield Teaching Hospitals NHS Foundation Trust	11	1,750,945	209,524	645,967	2,606,436
University Hospitals of Derby and Burton NHS Foundation Trust	10	1,213,899	201,262	362,500	1,777,661
East Midlands Strategic Health Authority	8	925,500	261,039	408,750	1,595,289
Manchester University NHS Foundation Trust	8	1,508,053	176,280	388,550	2,072,883
Chelsea & Westminster Hospital NHS Foundation Trust	7	2,849,826	297,590	940,900	4,088,316
South East Coast Strategic Health Authority	7	1,345,496	292,673	598,520	2,236,689
Warrington and Halton Hospitals NHS Foundation Trust	7	1,550,750	157,834	528,279	2,236,863
Northern Lincolnshire & Goole Hospitals NHS Foundation Trust	7	778,677	165,936	319,867	1,264,480
Hull University Teaching Hospitals NHS Trust	7	1,560,692	305,618	676,400	2,542,709
North Middlesex University Hospital NHS Trust	7	1,175,644	327,978	563,500	2,067,122
Pennine Acute Hospitals NHS Trust (The)	7	1,850,761	264,008	475,260	2,590,029
Ashford & St Peter's Hospitals NHS Foundation Trust	7	1,070,500	194,734	481,000	1,746,234
Gloucestershire Hospitals NHS Foundation Trust	6	697,534	203,401	462,500	1,363,435
Bedfordshire Hospitals NHS Foundation Trust	6	574,574	118,244	258,000	950,817
Calderdale & Huddersfield NHS Foundation Trust	6	1,758,777	171,365	397,819	2,327,962
South Tyneside and Sunderland NHS Foundation Trust	6	2,258,061	207,750	608,875	3,074,686
Frimley Health NHS Foundation Trust	6	1,890,548	260,208	492,475	2,643,231
London North West University Healthcare NHS Trust	6	1,210,001	265,303	573,000	2,048,304
South West Strategic Health Authority	6	1,113,560	202,119	461,356	1,777,035
Mid and South Essex NHS Foundation Trust	6	1,310,500	244,736	697,970	2,253,206
Yorkshire and The Humber Strategic Health Authority	6	1,175,191	191,754	464,500	1,831,444
Barts Health NHS Trust	6	1,957,500	136,484	587,721	2,681,705
Oxford Radcliffe Hospitals NHS Trust	6	635,992	122,211	263,250	1,021,452
Sandwell & West Birmingham Hospitals NHS Trust	6	912,500	137,226	230,500	1,280,226
West Yorkshire Strategic Health Authority	6	975,510	138,667	215,864	1,330,041
United Lincolnshire Hospitals NHS Trust	6	2,183,055	366,058	767,250	3,316,363
University Plymouth Hospitals NHS Trust	6	1,623,295	291,765	645,500	2,560,560
Doncaster and Bassetlaw Teaching Hospitals NHS Foundation Trust	6	1,221,000	219,137	406,250	1,846,387
King's College Hospital NHS Foundation Trust	5	2,936,403	181,547	1,043,500	4,161,450
Buckinghamshire Healthcare NHS Trust	5	984,720	125,694	214,500	1,324,914
North East London Strategic Health Authority	5	460,000	134,505	155,870	750,375
Walsall Healthcare NHS Trust	5	831,462	254,806	513,591	1,599,860
West Midlands South Strategic Health Authority	5	679,577	120,630	204,239	1,004,447
York and Scarborough Teaching Hospitals NHS Foundation Trust	5	964,527	173,803	425,257	1,563,586
North West Strategic Health Authority	5	942,000	226,976	347,113	1,516,089
Barnsley Hospital NHS Foundation Trust	5	1,503,005	108,104	344,150	1,955,259
Blackpool Teaching Hospitals NHS Foundation Trust	5	1,173,376	207,972	332,750	1,714,098
South East London Strategic Health Authority	5	410,000	129,480	196,511	735,991
Epsom and St Helier University Hospitals NHS Trust	5	2,896,588	236,849	632,500	3,765,937
North Bristol NHS Trust	5	1,147,881	185,848	469,317	1,803,046
East Suffolk and North Essex NHS Foundation Trust	5	1,953,473	211,829	640,051	2,805,353
Lewisham & Greenwich NHS Trust	5	1,847,942	203,959	668,053	2,719,954
East and North Hertfordshire NHS Trust	5	1,437,412	182,830	544,510	2,164,752
Guy's and St Thomas' NHS Foundation Trust	5	502,000	137,888	383,527	1,023,416
Nottingham University Hospitals NHS Trust	5	1,281,231	143,422	450,000	1,874,653
West Hertfordshire Hospitals NHS Trust	5	2,012,500	281,810	564,327	2,858,637
Grand Total	656	147,449,418	21,700,687	50,567,523	219,717,628