



Resolution

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February 2022
FOI_5286

The following information was requested on 4 January 2022:

How many clinical negligence claims involving an injury code of (i) loss of sexual function, or (ii) impotence, were paid out by the NHSLA or NHS Resolution in the combined last three financial years? (18/19) (19/20) and (20/21)?

What was the monetary value of payments made against those claims that were paid in those three combined financial years, regardless of when the incident took place or the claim was lodged?

How many clinical negligence claims involving an injury code of (i) incontinence were paid out by the NHSLA or NHS Resolution in the combined last three financial years? (18/19) (19/20) and (20/21).

What was the monetary value of payments made against those claims that were paid in those three combined financial years, regardless of when the incident took place or the claim was lodged?

Our Response

Please find attached the requested information. In respect of table 2 the data shows an increase in damages paid in relation to claims closed in the financial year 2020/21. This is a reflection of the nature of individual claims received by NHS Resolution which can vary significantly in value even within the same discipline. As such these fluctuations cannot be interpreted as trends. The data provided reflects the number of claims closed in each financial year with a damages payment and not the number of claims received in that year by NHS Resolution. 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.

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 FOI 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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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 and Cost of Claims Closed where Primary Injury is 'Impotence' or 'Loss of Sexual Function' between financial years 2018/19 - 2020/21 with damages paid](#)

[Table 2: Number and Cost of Claims Closed where Primary Injury is 'Incontinence' between financial years 2018/19 - 2020/21 with damages paid](#)

Table 1: Number and Cost of Claims Closed where Primary Injury is 'Impotence' or 'Loss of Sexual Function' between financial years 2018/19 - 2020/21 with damages paid

Closed_Settled	Y
Scheme	CNST
Claim_Outcome_FOI	Damages Paid
Clinical_NonClinical	Clinical

Year of Closure	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2018/19					
Impotence	5	280,000	61,727	224,687	566,414
Loss Of Sexual Function	9	479,500	56,575	422,698	958,772
2019/20					
Loss Of Sexual Function	#	#	#	#	#
2020/21					
Impotence	#	#	#	#	#
Loss Of Sexual Function	5	303,454	111,465	187,150	602,069
Grand Total	23	3,806,006	326,465	1,158,535	5,291,006

Table 2: Number and Cost of Claims Closed where Primary Injury is 'Incontinence' between financial years 2018/19 - 2020/21 with damages paid

Closed_Settled	Y
Scheme	CNST
Claim_Outcome_FOI	Damages Paid
Clinical_NonClinical	Clinical

Year of Closure	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2018/19					
Incontinence	41	4,862,434	709,954	3,118,035	8,690,422
2019/20					
Incontinence	30	3,090,377	695,128	2,414,763	6,200,269
2020/21					
Incontinence	39	8,254,880	795,679	2,931,939	11,982,497
Grand Total	110	16,207,691	2,200,761	8,464,737	26,873,189