



# Resolution

8th Floor,  
10 South Colonnade  
Canary Wharf  
London  
E14 4PU

**Telephone:** 020 7811 2700

November 2022  
FOI\_5617

The following information was requested on 10 October 2022:

- 1. How much has the NHS paid in compensation to NHS patients for operations and treatments in non NHS hospitals and treatment centre in (a) 2019/20 and (b) 2021/22 and what was the most common injury category for payment in each of those years?*
- 2. Can you provide a table of all the injury codes for the cohort of payouts in relation to Question 1 and the number of claims against each code?*

*Note: The question refers to when the payout was made regardless of when the claim was lodged or when the incident happened. The answer should be provided on the same basis as was done for a previous FoI response from you [Ref: [FOI 5209](#)]*

## Our Response

Please find attached the details of claims recorded against independent sector healthcare providers treating NHS patients who are members of our indemnity scheme. The numbers are likely to include a few cases where treatment was in the community, as opposed to on the premises of private providers.

Please note that we do not indemnify all independent sector providers and therefore can only answer the questions raised for those organisations that are members of our schemes. Therefore, the volume of claims notified and settled will fluctuate, dependant on the number of independent sector members we indemnify at any point.

Please note there are a small number of claims not included where a Trust has sub-contracted work to a private hospital and it is a term of the arrangement that the Trust agrees to accept liability (for whatever reason) and we log such cases against the Trust. It is not possible to identify these from our Claims Management System as we do not have a code for them.

Please note claims notified/received and open are not guaranteed to be settled and/or closed 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.

**Table 1 shows:-** Number and amount of damages paid for Claims Closed in the financial year 2021/22 with damages paid for NHS patients referred to Independent Providers.

**Tables 2 shows:-** Analysis of Primary Injury for Claims Closed with a damages payment in the financial year 2021/22 with damages paid for NHS patients referred to Independent Providers.

Please note we have supplied the amount of compensation excluding any legal costs paid, in line with the previous FOI response [FOI 5209 Treatments-in-non-NHS-hospitals.pdf \(resolution.nhs.uk\)](#) .

### **Low Figures**

Please note 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(3A)(a) 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](#), Deputy

Director of Corporate and Information Governance, Data Protection Officer 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/>

## TABLE OF CONTENTS

**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 in financial year 2021/22 with damages paid for NHS patients referred to Independent Providers](#)

[Table 2: Analysis of Primary Injury for Claims Closed in financial year 2021/22 with damages paid for NHS patients referred to Independent Providers](#)

**Table 1: Number and Cost of Claims Closed in financial year 2021/22 with damages paid for NHS patients referred to Independent Providers**

---

FOI View scheme Claim_Outcome	Closed Settled (All) Successful
-------------------------------------	---------------------------------------

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid
2021/22	221	18,134,477
<b>Grand Total</b>	<b>221</b>	<b>18,134,477</b>

**Table 2: Analysis of Primary Injury for Claims Closed in financial year 2021/22 with damages paid for NHS patients referred to Independent Providers**

FOI View scheme	Closed Settled (All)
Claim_Outcome	Successful

Year of Closure (Settlement Year for PPOs) ----- Primary Injuries	No. of Claims	Damages Paid
<b>2021/22</b>	<b>221</b>	<b>18,134,477</b>
Adtnl/unnecessary Operation(s)	72	3,545,262
Unnecessary Pain	29	2,177,658
Pressure Sores	9	284,361
Nerve Damage	8	2,170,432
Poor Outcome - Fractures Etc.	8	1,286,574
Joint Damage	6	1,779,192
Fracture	6	745,844
Burn(s)	5	45,950
Bladder Damage	5	241,746
Scarring	5	72,165
Other Visual Problems	5	248,000
Tendon Damage	#	#
Spinal Damage	#	#
Bile Duct Damage	#	#
Other	#	#
Cancer	#	#
Psychiatric/Psychological Dmge	#	#
Amputation - Lower	#	#
Tissue Damage	#	#
Other Infection	#	#
Blindness	#	#
Thrombosis/Embolism	#	#
Perforation	#	#
Bowel Damage/ Dysfunction	#	#
Infection (bacterial)	#	#
Amputation - Upper	#	#
Fatality	#	#
Hernia	#	#
Foot Drop	#	#
Rupture	#	#
Epilepsy	#	#
Hospital Acquired Infection	#	#
Dental Damage	#	#
Impotence	#	#
Unwanted Pregnancy	#	#
Removal Of Fallopian Tube	#	#
Multiple Injuries	#	#
Dislocation	#	#
Advanced Stage Cancer	#	#
Cardiovascular Condition	#	#
Renal Damage/ Failure	#	#
Removal Of Testicle	#	#
Oedema	#	#
Osteoporosis	#	#
Anaesthetic	#	#
Not Specified	#	#

**Table 2: Analysis of Primary Injury for Claims Closed in financial year 2021/22 with damages paid for NHS patients referred to Independent Providers**

---

FOI View	Closed Settled
scheme	(All)
Claim_Outcome	Successful

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid
----- Primary Injuries		
Cardiac Arrest	#	#
<b>Grand Total</b>	<b>221</b>	<b>18,134,477</b>