



# Resolution

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December 2022  
FOI\_5627

The following information was requested on 16 October 2022:

*This question relates to all settlements that have been made by the NHSLA and NHS Resolution where the settlement figure of compensation was equal to or in excess of £5million, or the total budgeted payment was estimated to be equal to or in excess of £5million (this is for a staged payment where the initial payment may be less than £5m but over the life of the claim you have budgeted to pay out more than £5m).*

*For each settlement please provide the trust name, damages paid and/or total damages budgeted to be paid, injury and speciality.*

*Please could this data be provided for the last financial year (2021/22).*

*NOTE: These questions relate to when the claim was paid or closed, not when the claim was lodged or when the incident took place.*

*NOTE: Please provide the response in the same format and on the same basis as a previous FOI response provided to me [Ref: [FOI 4833](#)]*

## Our Response

Please note our previous response to this similar request is here: [FOI 5212 Claims-in-excess-of-5million.pdf \(resolution.nhs.uk\)](#)

Please find attached the following dataset:

**Table 1** – shows the number and cost of claims settled with a damages payment equal to or greater than £5m or where the estimated future liability is equal to or greater than £5m closed (or settled with a PPO (see below)) in financial year 2021/22.

**Please note there were no members with 5 or more claims during this period.**

**Table 2** – shows analysis of Primary Injuries where the number of claims is 5 or greater, for the claims settled with a damages payment equal to or greater than £5m or where the estimated future liability is equal to or greater than £5m closed (or settled with a PPO) in financial year 2021/22.

Please note the numbers will not match table 1. There will be injuries **not** mentioned with fewer than 5 claims. This information has been refused on data protection grounds. Please see our reasoning below.

**Table 3** – shows analysis of Specialties where the number of claims is 5 or greater, for the claims settled with a damages payment equal to or greater than £5m or where the estimated future liability is equal to or greater than £5m closed (or settled with a PPO) in financial year 2021/22.

Please note the numbers will not match table 1. There will be specialties **not** mentioned with fewer than 5 claims. This information has been refused on data protection grounds. Please see our reasoning below.

### **PPOs -**

The information disclosed includes damages paid out in the relevant period under Periodical payment orders (PPO) previously agreed on cases, which may have been resolved several years ago. It does not include sums, which have been committed on settlements in the relevant period under a PPO, which may not be paid out until future years. PPOs are an agreement between the parties, to pay an initial lump sum and regular future payments covering the injured party's ongoing care needs, usually for life i.e. a percentage of the full value of the claim is paid at the point of settlement with the balance paid at regular intervals over subsequent years.

### **Low Numbers**

We have suppressed low figures and not provided the names of the Trusts with fewer than 5 claims, 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.

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 1: Analysis of Members for Claims Closed in financial year 2021/22 with a damages payment equal to or greater than £5m, or where the estimated future liability is equal to or greater than £5m and the number of claims is 5 or greater (includes the damages paid to date for any claims settled on a periodical payment order basis)**

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FOI View	Closed Settled
scheme	(All)
Claim_Outcome	Successful

Year of Closure (Settlement Year for PPOs)--- Member Name	No. of Claims	Total Damages
2021/22	102	1,374,056,815
<b>Grand Total</b>	<b>102</b>	<b>1,374,056,815</b>

**Table 2: Analysis of Primary Injuries for Claims Closed in financial year 2021/22 with a damages payment equal to or greater than £5m or where the estimated future liability is equal to or greater than £5m and the number of claims is 5 or greater (includes the damages paid to date for any claims settled on a periodical payment order basis)**

FOI View scheme Claim_Outcome	Closed Settled (All) Successful
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<b>Year of Closure (Settlement Year for PPOs)</b> ----- Primary Injuries	<b>No. of Claims</b>	<b>Total Damages</b>
<b>2021/22</b>	<b>102</b>	<b>1,374,056,815</b>
Brain Damage	38	544,755,841
Cerebral Palsy	37	567,240,059
Wrongful Birth	7	59,675,000
<b>Grand Total</b>	<b>102</b>	<b>1,374,056,815</b>

**Table 3: Analysis of Specialty for Claims Closed in financial year 2021/22 with a damages payment equal to or greater than £5m or where the estimated future liability is equal to or greater than £5m and the number of claims is 5 or greater (includes the damages paid to date for any claims settled on a periodical payment order basis)**

FOI View scheme	Closed Settled (All)
Claim_Outcome	Successful

Year of Closure (Settlement Year for PPOs) ----- Primary Specialty	No. of Claims	Total Damages
<b>2021/22</b>	<b>102</b>	<b>1,374,056,815</b>
Obstetrics	68	978,868,623
Paediatrics	9	130,959,164
Emergency Medicine	5	60,741,187
Neurosurgery	5	52,976,709
<b>Grand Total</b>	<b>102</b>	<b>1,374,056,815</b>