



Resolution

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FOI_5666

The following information was requested on 8 November 2022:

We are looking to review the number of cases of complaints/litigation under speciality dental per year from 2010-2022 by incident date

We would be interested in:

- 2. The condition or procedure related to the complaint*
- 3. What the injury, cause code is per case*
- 4. How many cases were settled/closed/proceeded to legal action*
- 5. Defence costs, damages and claimant costs*

Our Response

NB: We do not indemnify primary care dental work and never have. We can report on dental claims in a secondary care setting. However, we do not hold details of claims relating to claims in a dental practice setting (i.e.) primary care.

Please note that the Clinical Negligence Scheme for Trusts (CNST) only covers dentistry practice where it takes place within a member organisation (e.g. Bristol dental hospital at University Hospitals Bristol Foundation Trust) and **not** the majority of NHS dental service that is provided in dental practices.

Primary Care Dentists would be covered by commercial indemnifiers. You may wish to contact the [British Dental Association](#) for further information.

Please find attached the requested information in respect of dental claims in a secondary care setting.

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

We are able to provide information in financial years. Please note we are unable to provide you with the details of the procedure or condition related to the complaint without interrogating individual claims files. This would exceed the time limit provided under the Freedom of Information Act 2000 (FOI).

The Claims management database was designed primarily as a claims management tool rather than for research purposes. A claim may be multi-factorial and/or settled on a number of bases, which is not easily captured in the database. We would need to manually review over 1,000 individual claims to be ascertain the *condition or procedure related to the complaint*. This would exceed the appropriate limit set under the FOI legislation.

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'. This would be in addition to the time table to provide the attached tables.

Please **find attached** the information we are able to provide within the cost limit, in respect of the Specialty – **Dentistry**.

Table 1 shows – Number of Clinical claims with an incident date between financial years 2009/10 and 2021/22 where the specialty is '**Dentistry**'.

Table 2 shows – Number of Clinical Claims received between financial years 2009/10 and 2021/22 where the specialty is '**Dentistry**'.

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.

Some of the claims notified will have been repudiated and settled without damages paid.

Table 3 shows:- Number of Clinical Claims closed/settled with an incident date between financial years 2009/10 and 2021/22 where claim outcome is **Damages Paid** and the specialty is '**Dentistry**' broken down by primary injury.

Table 4 shows:- Number of Clinical Claims closed/settled with an incident date between financial years 2009/10 and 2021/22 where claim outcome is **Nil Damages** and the specialty is '**Dentistry**' broken down by primary injury.

Table 5 shows:- Number of Clinical Claims closed/settled with an incident date between financial years 2009/10 and 2021/22 where claim outcome is **Damages Paid** and the specialty is '**Dentistry**' broken down by primary cause.

Table 6 shows:- Number of Clinical Claims closed/settled with an incident date between financial years 2009/10 and 2021/22 where claim outcome is **Nil Damages** and the specialty is '**Dentistry**' broken down by primary cause.

Low Numbers -

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.

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. 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](#), 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/>

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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 of Clinical Claims with an incident year between financial years 2009/10 and 2021/22 where the specialty is 'Dentistry'.](#)

[Table 2: Number of Clinical Claims received between financial years 2009/10 and 2021/22 where the specialty is 'Dentistry'.](#)

[Table 3: Number of Clinical Claims closed/settled with an incident date between financial years 2009/10 and 2021/22 where claim outcome is Damages Paid and specialty is 'Dentistry' broken down by primary injury.](#)

[Table 4: Number of Clinical Claims closed/settled with an incident date between financial years 2009/10 and 2021/22 where claim outcome is Nil Damages and specialty is 'Dentistry' broken down by primary injury.](#)

[Table 5: Number of Clinical Claims closed/settled with an incident date between financial years 2009/10 and 2021/22 where claim outcome is Damages Paid and the specialty is 'Dentistry' broken down by primary cause.](#)

[Table 6: Number of Clinical Claims closed/settled with an incident date between financial years 2009/10 and 2021/22 where claim outcome is Nil Damages and the specialty is 'Dentistry' broken down by primary cause.](#)

Table 1: Number of Clinical Claims with an incident year between financial years 2009/10 and 2021/22 where the specialty is 'Dentistry'.

FOI View scheme Incident Year	Notified (All) (Multiple Items)
Year of Incident	No. of Claims
2009/10	87
2010/11	106
2011/12	107
2012/13	116
2013/14	121
2014/15	117
2015/16	93
2016/17	76
2017/18	77
2018/19	55
2019/20	40
2020/21	5
2021/22	7
Grand Total	1,007

Table 2: Number of Clinical Claims received between financial years 2009/10 and 2021/22 where the specialty is 'Dentistry'.

FOI View scheme	Notified (All)
Year of Notification	No. of Claims
2009/10	52
2010/11	81
2011/12	94
2012/13	99
2013/14	112
2014/15	113
2015/16	125
2016/17	128
2017/18	87
2018/19	77
2019/20	78
2020/21	79
2021/22	47
Grand Total	1,172

Table 3: Number of Clinical Claims closed/settled with an incident date between financial years 2009/10 and 2021/22 where claim outcome is Damages Paid and specialty is 'Dentistry' broken down by primary injury.

FOI View scheme	Closed Settled (All)
Claim_Outcome	Successful
Incident Year	(Multiple Items)

Primary Injury	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Dental Damage	210	1,686,209	470,230	2,904,602	5,061,042
Unnecessary Pain	94	782,103	277,898	1,380,879	2,440,879
Adtnl/unnecessary Operation(s)	71	637,104	273,828	1,037,541	1,948,473
Nerve Damage	60	1,558,696	291,988	1,397,195	3,247,880
Burn(s)	38	286,872	37,781	342,620	667,274
Scarring	15	50,111	11,942	78,681	140,735
Fracture	11	173,649	54,226	303,500	531,375
Psychiatric/Psychological Dmge	7	89,937	9,163	61,950	161,050
Other Infection	7	16,750	10,686	27,368	54,804
Cosmetic Disfigurement	6	162,554	26,933	170,527	360,015
Fatality	5	292,000	90,798	388,750	771,548
Other	#	#	#	#	#
Tissue Damage	#	#	#	#	#
Poor Outcome - Fractures Etc.	#	#	#	#	#
Benign Tumour	#	#	#	#	#
Cancer	#	#	#	#	#
Anaphylact Shock/Allergic Shock/allergy	#	#	#	#	#
Bodily Harm/Murder	#	#	#	#	#
Brain Damage	#	#	#	#	#
Grand Total	538	6,185,617	1,737,369	8,793,951	16,716,937

Table 4: Number of Clinical Claims closed/settled with an incident date between financial years 2009/10 and 2021/22 where claim outcome is Nil Damages and specialty is 'Dentistry' broken down by primary injury.

FOI View scheme	Closed Settled (All)
Claim_Outcome	Unsuccessful
Incident Year	(Multiple Items)

Primary Injury	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Dental Damage	172	0	173,616	0	173,616
Unnecessary Pain	157	0	134,830	13,300	148,130
Adtnl/unnecessary Operation(s)	32	0	29,548	0	29,548
Nerve Damage	27	0	64,231	0	64,231
Fracture	14	0	17,447	0	17,447
Other Infection	11	0	28,579	0	28,579
Other	7	0	5,900	0	5,900
Psychiatric/Psychological Dmge	7	0	1,900	0	1,900
Burn(s)	5	0	3,451	0	3,451
Cancer	5	0	12,714	0	12,714
Scarring	#	#	#	#	#
Joint Damage	#	#	#	#	#
Tissue Damage	#	#	#	#	#
Tendon Damage	#	#	#	#	#
Anaphylact Shock/Allergic Shock/allergy	#	#	#	#	#
Advanced Stage Cancer	#	#	#	#	#
Cardiac Arrest	#	#	#	#	#
Fatality	#	#	#	#	#
Multiple Injuries	#	#	#	#	#
Bruising/ Extravasation	#	#	#	#	#
Fistula	#	#	#	#	#
Infectious Diseases	#	#	#	#	#
Cosmetic Disfigurement	#	#	#	#	#
Dislocation	#	#	#	#	#
Poor Outcome - Fractures Etc.	#	#	#	#	#
Meningitis	#	#	#	#	#
Grand Total	462	0	504,684	13,300	517,984

Table 5: Number of Clinical Claims closed/settled with an incident date between financial years 2009/10 and 2021/22 where claim outcome is Damages Paid and the specialty is 'Dentistry' broken down by primary cause.

FOI View scheme	Closed Settled (All)
Claim_Outcome	Successful
Incident Year	(Multiple Items)

Primary Cause	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Fail / Delay Treatment	101	1,044,284	323,171	1,855,936	3,223,391
Inappropriate Treatment	73	796,972	210,036	1,148,489	2,155,497
Intra-Op Problems	62	1,066,043	454,093	1,471,113	2,991,248
Operator Error	52	544,430	108,025	675,370	1,327,824
Fail To Warn-Informed Consent	40	656,778	183,456	839,085	1,679,319
Tooth Inj & Patient Posit Prob	36	338,605	51,139	441,226	830,969
Equipment Malfunction	28	228,030	30,395	227,062	485,487
Wrong Site Surgery	24	182,750	25,082	226,195	434,027
Failure/Delay Diagnosis	22	248,148	91,377	415,578	755,104
Wrong Site Surgery	10	35,350	3,178	30,442	68,971
Perform. Of Op. Not Indicated	9	129,910	23,889	146,851	300,651
Wrong Site Surgery (Never Event)	7	44,566	1,111	26,961	72,638
Failure To Interpret X-Ray	6	83,678	13,432	114,107	211,217
Inadequate Monitoring Intra-Op	6	39,070	7,533	39,895	86,498
Failure To X-Ray	6	31,165	5,320	52,280	88,765
Other	5	15,250	2,532	22,200	39,982
Fail To Recog. Complication Of	5	27,900	14,784	87,657	130,341
Err With Agnt/Dose/Route/Selec	#	#	#	#	#
Fail To Supervise	#	#	#	#	#
Bacterial Infection	#	#	#	#	#
Delay In Performing Operation	#	#	#	#	#
Fail/Delay Referring To Hosp.	#	#	#	#	#
Fail To Follow-Up Arrangements	#	#	#	#	#
Lack Of Assistance/Care	#	#	#	#	#
Application Of Excess Force	#	#	#	#	#
Failure To Perform Operation	#	#	#	#	#
Foreign Body Left In Situ	#	#	#	#	#
Inappropriate Discharge	#	#	#	#	#
Wrong Diagnosis	#	#	#	#	#
Lack Of Facilities/Equipment	#	#	#	#	#
Diathermy Burns/react. To Prep	#	#	#	#	#
Lack Of Pre-Op Evaluation	#	#	#	#	#
Fail To Act On Abnorm Test Res	#	#	#	#	#
Failure To Perform Tests	#	#	#	#	#
Incorrect Injection Site	#	#	#	#	#
Inadequate Nursing Care	#	#	#	#	#
Wrong Site Surgery - DO NOT USE	#	#	#	#	#
Intubation Problems	#	#	#	#	#
Fail To Infrm Test Rslts	#	#	#	#	#
Probs With Medical Records	#	#	#	#	#
Grand Total	538	6,185,617	1,737,369	8,793,951	16,716,937

Table 6: Number of Clinical Claims closed/settled with an incident date between financial years 2009/10 and 2021/22 where claim outcome is Nil Damages and the specialty is 'Dentistry' broken down by primary cause.

FOI View scheme	Closed Settled (All)
Claim_Outcome	Unsuccessful
Incident Year	(Multiple Items)

Primary Cause	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Fail / Delay Treatment	185	0	206,221	4,200	210,421
Inappropriate Treatment	59	0	63,615	9,100	72,715
Fail To Warn-Informed Consent	34	0	67,476	0	67,476
Operator Error	30	0	20,421	0	20,421
Intra-Op Problems	29	0	21,682	0	21,682
Tooth Inj & Patient Posit Prob	24	0	14,018	0	14,018
Failure/Delay Diagnosis	19	0	16,707	0	16,707
Lack Of Assistance/Care	10	0	7,983	0	7,983
Fail To Follow-Up Arrangements	8	0	7,433	0	7,433
Delay In Performing Operation	7	0	5,907	0	5,907
Fail To Recog. Complication Of	6	0	37,940	0	37,940
Fail/Delay Referring To Hosp.	5	0	4,627	0	4,627
Equipment Malfunction	#	#	#	#	#
Failure To Perform Operation	#	#	#	#	#
Application Of Excess Force	#	#	#	#	#
Fail To Supervise	#	#	#	#	#
Other	#	#	#	#	#
Medication Errors	#	#	#	#	#
Foreign Body Left In Situ	#	#	#	#	#
Improp. Delegation To Junior	#	#	#	#	#
Wrong Site Surgery	#	#	#	#	#
Wrong Site Surgery	#	#	#	#	#
Perform. Of Op. Not Indicated	#	#	#	#	#
Inadequate Monitoring Intra-Op	#	#	#	#	#
Wrong Site Surgery (Never Event)	#	#	#	#	#
Err With Agnt/Dose/Route/Selec	#	#	#	#	#
Wrong Site Surgery - DO NOT USE	#	#	#	#	#
Failure To Interpret X-Ray	#	#	#	#	#
Lack Of Pre-Op Evaluation	#	#	#	#	#
Bacterial Infection	#	#	#	#	#
Fail To Carry Out PO Observs.	#	#	#	#	#
Fail To Infrm Test Rslts	#	#	#	#	#
Fail/Delay Admitting To Hosp.	#	#	#	#	#
Failure To Perform Tests	#	#	#	#	#
Grand Total	462	0	504,684	13,300	517,984