



Resolution

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March 2023
FOI_5742

The following information was requested on 3 January 2023:

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? (19/20), (20/21) and (21/22)?

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? (19/20), (20/21) and (21/22).

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.

Please also note that the data shows variation in damages and costs paid. This is a reflection of the nature of individual claims received by NHS Resolution, which can vary significantly. 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.

Please note there will be a slight difference in the figures provided in attached compared with previous reports disclosed. This is due to point in time reporting which is a snapshot in time and some cases are later re-opened or closed.

Table 1 shows:- Number and Cost of Clinical Claims Closed between financial years 2019/20 - 2021/22 where Primary Injury is '**Impotence**' or '**Loss of Sexual Function**' with damages paid.

Table 2 shows:- Number and Cost of Clinical Claims Closed between financial years 2019/20 - 2021/22 where Primary Injury is '**Incontinence**' with damages paid.

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.

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 where Primary Injury is 'Impotence' or 'Loss of Sexual Function' between financial years 2019/20 - 2021/22 with damages paid](#)

[Table 2: Number and Cost of Claims Closed where Primary Injury is 'Incontinence' between financial years 2019/20 - 2021/22 with damages paid](#)

Table 1: Number and Cost of Claims Closed where Primary Injury is 'Impotence' or 'Loss of Sexual Function' between financial years 2019/20 - 2021/22 with damages paid

FOI View scheme Claim_Outcome	Closed Settled (All) Successful
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Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2019/20					
Loss Of Sexual Function	#	#	#	#	#
2020/21					
Impotence	#	#	#	#	#
Loss Of Sexual Function	5	303,454	111,215	187,150	601,819
2021/22					
Impotence	#	#	#	#	#
Loss Of Sexual Function	7	534,877	76,626	427,250	1,038,753
Grand Total	18	3,615,774	291,676	969,900	4,877,350

Table 2: Number and Cost of Claims Closed where Primary Injury is 'Incontinence' between financial years 2019/20 - 2021/22 with damages paid

FOI View scheme Claim_Outcome	Closed Settled (All) Successful
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Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2019/20					
Incontinence	34	3,852,377	775,661	2,696,013	7,324,052
2020/21					
Incontinence	40	8,505,517	834,095	3,007,939	12,347,550
2021/22					
Incontinence	38	9,050,827	1,252,844	4,771,468	15,075,139
Grand Total	112	21,408,721	2,862,600	10,475,420	34,746,741