



Resolution

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March 2023
FOI_5837

The following information was requested on 15 February 2023:

PART 1a) How many clinical negligence claims where the injury was 'fatality' were paid out in the 2021/22 financial year? b) How many clinical negligence claims where the injury was 'fatality' have been paid out in the 2022/23 financial year to date?

PART 2a) How many periodical payments orders (PPOs) were agreed where the injury was 'fatality' from 2015/2016 to the current 2022/23 financial year, broken down by financial year?

PART 3a) What was the total amount of damages paid in relation to the claims in PART 1 a)?b) What is the total amount of damages paid in relation to the claims in PART 1 b)?

PART 4) For the financial year 2021/22, please provide a breakdown of the cause of death, where a claim has been made of negligence involving the death and a payout was made to the claimant.

PART 5) In 2021/22 which ten NHS Trusts have had the most number of claims made against them for fatality where a payout has been made? For each of these ten trusts please provide (a) the name of the trust, (b) the number of fatality claims paid out and (c) the total value of the damages paid out in those claims.

For all except Part 2, I understand this information may exclude PPOs.

Our Response

Please find attached the requested information. This information only covers England and not the rest of the UK. Please note the data for the financial year 2022/23 is currently unavailable as it is incomplete (the financial year is not complete) and has not been audited. This information will be available on request from July 2023.

NB: We have recently changed the way we report on our FOIs to align better with our published documents. Streamlining our reporting on FOIs with our annual published reports may mean a variation in snapshot dates. This means this data may not align with previous similar requests and it may not be possible for you to compare this

information with a previous request. For further information, please refer to <https://resolution.nhs.uk/resources/understanding-nhs-resolution-data>.

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. Claims closed in any given year will often relate to claims received/notified many years prior.

The data shows variation in numbers of cases closed per year and per member. 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.

In certain categories e.g. injury, our Claims database allows more than one response to be selected. There can therefore be e.g. primary, secondary and tertiary injuries related to the same case, depending on the circumstances of the individual claim. In our responses below, we have provided data on claims where the primary injury is records as fatality.

Table 1 shows:- Number and Cost of Clinical Claims closed in the financial year 2021/22 with damages paid (includes the damages paid to date for any claims settled on a periodical payment order basis), where the primary injury is "**Fatality**".

Table 2 shows:- Number and Cost of Clinical Claims closed between the financial years 2015/16 to 2021/22 with damages paid as a periodical payment order, where the primary injury is "**Fatality**".

Table 3 shows:- Broken down by Primary Cause number and Cost of Clinical Claims Closed in the financial year 2021/22 with damages paid (includes the damages paid to date for any claims settled on a periodical payment order basis) where the primary injury is "**Fatality**".

Table 4 shows:- Number and Cost of Clinical Claims closed in the financial year 2021/22 with damages paid (includes the damages paid to date for any claims settled on a periodical payment order basis), where the primary injury is "**Fatality**", broken down by **top 10** trusts based on number of claims.

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 / claimant'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 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 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 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 of Clinical Claims closed in financial year 2021/22 with damages paid (includes the damages paid to date for any claims settled on a periodical payment order basis), where the primary injury is "Fatality".

Table 2: Number of Clinical Claims closed between financial year 2015/16 to 2021/22 with damages paid as a PPO, where the primary injury is "Fatality".

Table 3: Broken down by Primary Cause number and Cost of Clinical Claims Closed between financial year 2021/22 with damages paid (includes the damages paid to date for any claims settled on a periodical payment order basis) where the primary injury is "Fatality".

Table 4: Number of Clinical Claims closed in financial year 2021/22 with damages paid (includes the damages paid to date for any claims settled on a periodical payment order basis), where the primary injury is "Fatality", broken down by top 10 trusts based on number of claims.

Table 1: Number of Clinical Claims closed in financial year 2021/22 with damages paid (includes the damages paid to date for any claims settled on a periodical payment order basis), where the primary injury is "Fatality"

| | |
|---------------|----------------|
| FOI View | Closed Settled |
| scheme | (All) |
| Claim_Outcome | Successful |
| reportingYear | 2021/22 |

| No. of Claims | Damages Paid | NHS Legal Costs Paid | Claimant Legal Costs Paid | Total Paid |
|---------------|--------------|----------------------|---------------------------|-------------|
| 832 | 99,473,709 | 13,402,644 | 50,985,624 | 163,861,977 |

Table 2: Number of Clinical Claims closed between financial year 2015/16 to 2021/22 with damages paid as a PPO, where the primary injury is "Fatality"

| | |
|-----------------|----------------------|
| FOI View scheme | Closed Settled (All) |
| Claim_Outcome | Successful |
| Is_PPO | Yes |

| Year of Closure (Settlement Year for PPOs) | No. of Claims | Damages Paid | NHS Legal Costs Paid | Claimant Legal Costs Paid | Total Paid |
|--|---------------|-------------------|----------------------|---------------------------|-------------------|
| 2017/18 | # | # | # | # | # |
| 2018/19 | # | # | # | # | # |
| 2020/21 | # | # | # | # | # |
| 2021/22 | # | # | # | # | # |
| Grand Total | 5 | 12,444,166 | 668,699 | 1,938,670 | 15,051,535 |

Table 3: Broken down by Primary Cause number and Cost of Clinical Claims Closed between financial year 2021/22 with damages paid (includes the damages paid to date for any claims settled on a periodical payment order basis) where the primary injury is "Fatality"

| | |
|-----------------|----------------------|
| FOI View scheme | Closed Settled (All) |
| Claim_Outcome | Successful |
| reportingYear | 2021/22 |

| Primary Cause | No. of Claims | Damages Paid | NHS Legal Costs Paid | Claimant Legal Costs Paid | Total Paid |
|--|---------------|-------------------|----------------------|---------------------------|--------------------|
| Fail / Delay Treatment | 249 | 29,719,508 | 3,941,415 | 14,948,978 | 48,609,901 |
| Failure/Delay Diagnosis | 135 | 19,569,040 | 2,953,197 | 8,901,159 | 31,423,397 |
| Inadequate Nursing Care | 42 | 1,384,832 | 386,554 | 1,297,023 | 3,068,409 |
| Inappropriate Treatment | 40 | 3,611,478 | 672,469 | 2,731,095 | 7,015,042 |
| Fail To Supervise | 30 | 2,533,109 | 414,232 | 1,535,500 | 4,482,841 |
| Unexpected Death | 29 | 4,297,425 | 452,235 | 2,209,937 | 6,959,598 |
| Fail To Act On Abnorm Test Res | 24 | 2,372,510 | 349,000 | 1,262,522 | 3,984,032 |
| Fail To Recog. Complication Of | 24 | 4,024,294 | 520,586 | 2,261,896 | 6,806,776 |
| Self Harm | 24 | 2,566,471 | 514,610 | 1,865,457 | 4,946,538 |
| Medication Errors | 22 | 1,210,562 | 184,242 | 854,368 | 2,249,173 |
| Failure To Perform Tests | 20 | 1,427,791 | 211,947 | 906,748 | 2,546,487 |
| Inappropriate Discharge | 19 | 1,193,588 | 300,661 | 1,042,558 | 2,536,806 |
| Delay In Performing Operation | 13 | 746,000 | 85,446 | 489,616 | 1,321,063 |
| Fail/Delay Admitting To Hosp. | 13 | 5,883,410 | 366,989 | 1,326,720 | 7,577,119 |
| Fail To Follow-Up Arrangements | 12 | 382,390 | 85,015 | 487,250 | 954,655 |
| Intra-Op Problems | 11 | 1,422,773 | 194,825 | 812,625 | 2,430,223 |
| Fail/Delay Referring To Hosp. | 11 | 1,068,319 | 257,392 | 716,335 | 2,042,045 |
| Fail To Warn-Informed Consent | 11 | 845,967 | 110,636 | 559,525 | 1,516,127 |
| Operator Error | 10 | 540,974 | 102,697 | 598,950 | 1,242,621 |
| Failure To Interpret X-Ray | 9 | 1,293,895 | 154,983 | 1,014,750 | 2,463,628 |
| Err With Agnt/Dose/Route/Selec | 8 | 359,750 | 101,669 | 445,713 | 907,132 |
| Fail To Monitor 1st Stg Labour | 6 | 385,668 | 80,878 | 364,250 | 830,796 |
| Fail Antenatal Screening | 6 | 7,331,419 | 152,350 | 836,300 | 8,320,069 |
| Failure To X-Ray | 6 | 307,700 | 86,353 | 228,563 | 622,615 |
| Equipment Malfunction | 5 | 316,000 | 19,814 | 228,000 | 563,814 |
| Bacterial Infection | 5 | 620,000 | 43,347 | 192,315 | 855,662 |
| Wrong Diagnosis | 5 | 487,916 | 27,841 | 199,486 | 715,243 |
| Not Specified | # | # | # | # | # |
| Other | # | # | # | # | # |
| Fail To Infrm Test RsIts | # | # | # | # | # |
| Fail To Carry Out PO Observs. | # | # | # | # | # |
| Birth Defects | # | # | # | # | # |
| Lack Of Assistance/Care | # | # | # | # | # |
| Fail To Monitor 2nd Stg Labour | # | # | # | # | # |
| MisplacedNaso/OrogastricTubeNotDet | # | # | # | # | # |
| Fail To Interpret USS | # | # | # | # | # |
| Infusion Problems | # | # | # | # | # |
| Fail To Make Resp To Abnrm FHR | # | # | # | # | # |
| Failure To Perform Operation | # | # | # | # | # |
| Foreign Body Left In Situ | # | # | # | # | # |
| Perform. Of Op. Not Indicated | # | # | # | # | # |
| Improp. Delegation To Junior | # | # | # | # | # |
| EscapeSecurePrm byMHPtsTransfPrisoners | # | # | # | # | # |
| Problem Blood Fluids | # | # | # | # | # |
| Application Of Excess Force | # | # | # | # | # |
| Intubation Problems | # | # | # | # | # |
| Forceps Delivery | # | # | # | # | # |
| Cross Infection | # | # | # | # | # |
| InPatientSuicide- NonCollapsible Rails | # | # | # | # | # |
| Grand Total | 832 | 99,473,709 | 13,402,644 | 50,985,624 | 163,861,977 |

Table 4: Number of Clinical Claims closed in financial year 2021/22 with damages paid (includes the damages paid to date for any claims settled on a periodical payment order basis), where the primary injury is "Fatality", broken down by top 10 trusts based on number of claims.

| | |
|-----------------|----------------------|
| FOI View scheme | Closed Settled (All) |
| Claim_Outcome | Successful |
| reportingYear | 2021/22 |

| Trust Name | No. of Claims | Damages Paid | NHS Legal Costs Paid | Claimant Legal Costs Paid | Total Paid |
|--|---------------|-------------------|----------------------|---------------------------|-------------------|
| Manchester University NHS Foundation Trust | 27 | 2,653,602 | 311,823 | 1,432,006 | 4,397,431 |
| United Lincolnshire Hospitals NHS Trust | 26 | 3,937,656 | 205,370 | 1,067,061 | 5,210,087 |
| Barts Health NHS Trust | 20 | 4,917,806 | 399,998 | 1,285,615 | 6,603,419 |
| King's College Hospital NHS Foundation Trust | 19 | 1,248,861 | 272,851 | 956,006 | 2,477,718 |
| University Hospitals of Leicester NHS Trust | 18 | 925,964 | 138,032 | 733,840 | 1,797,836 |
| Mid and South Essex NHS Foundation Trust | 16 | 2,356,000 | 215,883 | 987,450 | 3,559,333 |
| Blackpool Teaching Hospitals NHS Foundation Trust | 15 | 3,412,491 | 284,120 | 1,247,725 | 4,944,336 |
| Department of Health | 15 | 1,355,150 | 232,236 | 1,022,570 | 2,609,957 |
| Northern Care Alliance NHS Foundation Trust | 14 | 761,869 | 127,739 | 413,320 | 1,302,928 |
| University Hospitals Birmingham NHS Foundation Trust | 12 | 2,370,842 | 176,447 | 746,906 | 3,294,195 |
| University Hospitals Sussex NHS Foundation Trust | 12 | 1,480,430 | 1,088,666 | 1,454,222 | 4,023,318 |
| Grand Total | 194 | 25,420,671 | 3,453,167 | 11,346,722 | 40,220,559 |