



# Resolution

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March 2023  
FOI\_5845

The following information was requested on 20 February 2023:

*I was wondering if it was possible for you to provide me with the following information.*

- *What is the total number of cases for missed fractures 2019-2022?*
- *What is the total cost of all the claims?*
- *What is the average cost per claim?*
- *What is the most common missed fracture claimed for?*

## Our Response

Our data relates to England only. We are unable to provide more granular data on the type of fracture and / or whether the claim relates to fractures being “missed” or e.g. managed incorrectly.

Please find attached the requested information.

**Table 1 shows:** - Number of Clinical Claims and incidents received between the financial years 2018/19 – 2021/22 where the Primary Injury is **Fracture**. Broken down by Notification Year.

Please note claims notified/received and open are not guaranteed to settle in the same year and can take many years to conclude. 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.

Many of the claims notified will be repudiated and settled without damages paid.

**Table 2 shows:** - Number and cost of Claims closed between the financial years 2018/19 – 2021/22 where the Primary Injury is **Fracture**, where there is a damages payment. Broken down by Closure Year.

This table includes the average total paid broken down by year.

**Table 3 shows:** - Number and cost of Claims closed between the financial years 2018/19 – 2021/22 where the Primary Injury is **Fracture**, where there is a damages payment. Broken down by Primary Cause.

**Table 4 shows:** - Number of claims closed between the financial years 2018/19 – 2021/22 where the Primary Injury is '**Fracture**', where **Nil** damages is paid. Broken down by Closure Year.

### **Low Numbers**

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 Freedom of Information 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.

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 and Incidents received between the financial years 2018/19 – 2021/22 where the Primary Injury is 'Fracture'.

Table 2 – Number and cost of Claims closed between the financial years 2018/19 – 2021/22 where the Primary Injury is 'Fracture' where there is a damages payment. Broken down by Year.

Table 3 – Number and cost of Claims closed between the financial years 2018/19 – 2021/22 where the Primary Injury is 'Fracture' where there is a damages payment. Broken down by Primary Cause.

Table 4 – Number of claims closed between the financial years 2018/19 – 2021/22 where the Primary Injury is 'Fracture' where Nil damages is paid. Broken down by Year.

Table 1 - Number of Clinical Claims and Incidents received between the financial years 2018/19 – 2021/22 where the Primary Injury is 'Fracture'.

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FOI View	Notified
<b>Year of Notification</b>	<b>No. of Claims</b>
2018/19	468
2019/20	568
2020/21	471
2021/22	524
<b>Grand Total</b>	<b>2,031</b>

**Table 2 – Number and cost of Claims closed between the financial years 2018/19 – 2021/22 where the Primary Injury is 'Fracture' where there is a damages payment. Broken down by Year.**

FOI View	Closed Settled
Claim_Outcome	Successful

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid	Average Total Paid
2018/19	364	10,819,404	2,168,894	10,125,119	23,113,417	63,498
2019/20	395	10,010,231	1,981,861	10,278,976	22,271,068	56,382
2020/21	362	16,026,048	2,062,243	10,293,623	28,381,915	78,403
2021/22	372	13,452,377	2,486,124	12,522,089	28,460,591	76,507
<b>Grand Total</b>	<b>1,493</b>	<b>50,308,060</b>	<b>8,699,122</b>	<b>43,219,809</b>	<b>102,226,991</b>	<b>68,471</b>

**Table 3 – Number and cost of Claims closed between the financial years 2018/19 – 2021/22 where the Primary Injury is 'Fracture' where there is a damages payment. Broken down by Primary Cause.**

FOI View	Closed Settled
Claim_Outcome	Successful

Primary Cause	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Inadequate Nursing Care	394	11,500,757	1,593,167	10,287,256	23,381,181
Failure/Delay Diagnosis	249	6,337,934	1,586,031	6,934,519	14,858,484
Fail To Supervise	198	6,613,839	895,616	5,245,721	12,755,176
Fail / Delay Treatment	197	10,053,493	1,593,716	6,447,954	18,095,164
Failure To Interpret X-Ray	95	2,612,297	492,693	2,284,827	5,389,817
Lack Of Assistance/Care	90	2,705,012	430,303	2,238,256	5,373,571
Failure To X-Ray	59	2,121,000	385,871	1,732,798	4,239,669
Inappropriate Treatment	34	1,147,686	182,319	1,056,833	2,386,837
Intra-Op Problems	26	1,747,713	618,560	2,074,244	4,440,516
Operator Error	12	413,396	72,431	438,838	924,665
Fail To Recog. Complication Of	12	248,321	63,685	313,938	625,944
Fail To Warn-Informed Consent	9	463,245	82,490	351,500	897,235
Equipment Malfunction	9	1,382,003	90,502	269,170	1,741,675
Inappropriate Discharge	9	343,042	37,184	247,756	627,982
Other	8	168,000	21,443	174,000	363,443
Application Of Excess Force	8	45,550	22,079	199,400	267,029
Failure To Perform Operation	8	445,668	74,396	303,816	823,880
Delay In Performing Operation	6	65,000	20,268	146,750	232,018
Medication Errors	5	52,319	11,358	142,941	206,618
Wrong Diagnosis	5	104,553	94,656	366,073	565,282
Fail To Carry Out PO Observs.	5	136,451	25,755	160,314	322,520
Fail To Follow-Up Arrangements	5	95,000	12,527	144,757	252,283
Assault, Etc By Hospital Staff	#	#	#	#	#
Fail/Delay Admitting To Hosp.	#	#	#	#	#
Injured By Another Patient	#	#	#	#	#
Fail To Act On Abnorm Test Res	#	#	#	#	#
Fail To Infrm Test Rslts	#	#	#	#	#
Failure To Perform Tests	#	#	#	#	#
Fail/Delay Referring To Hosp.	#	#	#	#	#
Not Specified	#	#	#	#	#
Fail To Correctly Apply Forcep	#	#	#	#	#
Inc In Comm By Absc/disch Pat	#	#	#	#	#
Lack Of Pre-Op Evaluation	#	#	#	#	#
Fail To Monitor 2nd Stg Labour	#	#	#	#	#
Inadqte Monitor In Recov Room	#	#	#	#	#
Foreign Body Left In Situ	#	#	#	#	#
Unlawful Detention - Mntl Hlth	#	#	#	#	#
Probs With Medical Records	#	#	#	#	#
Infusion Problems	#	#	#	#	#
Inadequate Monitoring Intra-Op	#	#	#	#	#

Table 3 – Number and cost of Claims closed between the financial years 2018/19 – 2021/22 where the Primary Injury is 'Fracture' where there is a damages payment. Broken down by Primary Cause.

FOI View	Closed Settled
Claim_Outcome	Successful

Primary Cause	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
Self Harm	#	#	#	#	#
Injury To Others By Patient	#	#	#	#	#
Lack Of Facilities/Equipment	#	#	#	#	#
Err With Agnt/Dose/Route/Selec	#	#	#	#	#
Fail To Make Resp To Abnrm FHR	#	#	#	#	#
<b>Grand Total</b>	<b>1,493</b>	<b>50,308,060</b>	<b>8,699,122</b>	<b>43,219,809</b>	<b>102,226,991</b>



**Table 4 – Number of claims closed between the financial years 2018/19 – 2021/22 where the Primary Injury is 'Fracture' where Nil damages is paid. Broken down by Year.**

FOI View	Closed Settled
Claim_Outcome	Unsuccessful

Year of Closure (Settlement Year for PPOs)	No. of Claims	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2018/19	200	317,754	6,592	324,346
2019/20	162	391,958	41,000	432,958
2020/21	176	438,237	12,750	450,987
2021/22	174	450,051	12,018	456,069
<b>Grand Total</b>	<b>712</b>	<b>1,598,000</b>	<b>72,360</b>	<b>1,664,360</b>