



Resolution

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March 2023
FOI_5834

The following information was requested on 15 February 2023:

Just came across some data in one of your FOIs. It is [FOI 5617](#) and it relates to compensation for patients treated in non-NHS hospitals and treatment centres in 2019-20 and 2021/22. I've attached the PDF.

(1) I wondered if you could get me the same data in this FOI but for the 2018-19 and current 2022-23 periods?

(2) Also I don't know if it's possible but can NHS Resolution say what it has paid out in terms of the surgeon Ian Paterson as I understand NHS R contributed to the claims pot for NHS patients?

Our Response

Please find attached our response to (1) below which are set out at tables 1 and 2:

The following are notes in relation to this data:

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.

Please find attached the details of claims recorded against independent sector healthcare providers treating NHS patients who are members of our indemnity scheme. The numbers are likely to include a few cases where treatment was in the community, as opposed to on the premises of private providers.

Please note that we do not indemnify all independent sector providers and therefore can only answer the questions raised for those organisations that are members of our schemes. Therefore, the volume of claims notified and settled will fluctuate, dependant on the number of independent sector members we indemnify at any point.

Please note there are a small number of claims not included where a Trust has sub-contracted work to a private hospital and it is a term of the arrangement that the Trust agrees to accept liability (for whatever reason) and we log such cases against the

Trust. It is not possible to identify these from our Claims Management System as we do not have a code for them.

Please note claims notified/received and open are not guaranteed to be settled and/or closed 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.

Table 1 shows:- Number and Cost of Claims Closed (or settled with a PPO) between financial years 2018/19 and 2021/22 with damages paid for NHS patients referred to Independent Providers (includes the damages paid to date for any claims settled on a periodical payment order basis)

Tables 2 shows:- Analysis of Primary Injury for Claims Closed (or settled with a PPO) between financial years 2018/19 and 2021/22 with damages paid for NHS patients referred to Independent Providers (includes the damages paid to date for any claims settled on a periodical payment order basis)

Please note we have supplied the amount of compensation excluding any legal costs paid, in line with the previous FOI response [FOI 5617 Treatments-in-non-NHS-hospitals.pdf \(resolution.nhs.uk\)](#) .

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.

(2) In terms of your request for: *Also I don't know if it's possible but can NHS Resolution say what it has paid out in terms of the surgeon Ian Paterson as I understand NHS R contributed to the claims pot for NHS patients?*

We have interpreted your request to mean NHS Resolution payments on all Paterson claims.

On behalf of the Heart of England Foundation Trust NHS Resolution agreed to contribute £3.6 million to the global settlements made by Spire of £37 million, to include damages and claimant costs and with respect to all private patients". The £3.6 million is likely to represent a contribution to those cases where Paterson, in his capacity as an NHS consultant, referred certain of his own patients to himself in his private capacity for inappropriate procedures. We did not contribute to any wholly private claims.

Low Figures

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 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/>

Yours sincerely

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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 and Cost of Claims Closed/Settled between financial years 2018/19 and 2021/22 with damages paid for NHS patients referred to Independent Providers (includes the damages paid to date for any claims settled on a periodical payment order basis)

Table 2: Analysis of Primary Injury for Successful Claims Closed/Settled between financial years 2018/19 and 2021/22 with damages paid for NHS patients referred to Independent Providers (includes the damages paid to date for any claims settled on a periodical payment order basis)

Table 1: Number and Cost of Claims Closed/Settled between financial years 2018/19 and 2021/22 with damages paid for NHS patients referred to Independent Providers (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
ISP	Y

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid
2018/19	196	9,799,429
2019/20	189	12,321,964
2020/21	185	13,796,553
2021/22	221	18,134,477
Grand Total	791	54,052,423

Table 2: Analysis of Primary Injury for Successful Claims Closed/Settled between financial years 2018/19 and 2021/22 with damages paid for NHS patients referred to Independent Providers (includes the damages paid to date for any claims settled on a periodical payment order basis)

FOI View	Closed Settled
scheme	(All)
Claim_Outcome	Successful
ISP	Y

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid
----- Primary Injuries		
2018/19	196	9,799,429
Adtnl/unnecessary Operation(s)	52	2,582,339
Unnecessary Pain	27	725,538
Nerve Damage	13	985,501
Poor Outcome - Fractures Etc.	10	674,687
Fracture	8	218,839
Other Infection	6	369,558
Pressure Sores	6	117,409
Bile Duct Damage	5	730,087
Psychiatric/Psychological Dmge	5	18,670
Joint Damage	5	116,596
Bowel Damage/ Dysfunction	#	#
Bladder Damage	#	#
Thrombosis/Embolism	#	#
Fatality	#	#
Dental Damage	#	#
Burn(s)	#	#
Other Visual Problems	#	#
Advanced Stage Cancer	#	#
Dislocation	#	#
Blindness	#	#
Unwanted Pregnancy	#	#
Anaphylact Shock/Allergic Shock/allergy	#	#
Perforation	#	#
Multiple Injuries	#	#
Amputation - Upper	#	#
Wrongful Birth	#	#
Incontinence	#	#
Tendon Damage	#	#
Other	#	#
Anaesthetic	#	#
Bruising/ Extravasation	#	#
Not Specified	#	#
Cosmetic Disfigurement	#	#
Foot Drop	#	#
Limb Deformity	#	#
Arterial Damage	#	#
Cancer	#	#
Sexual Abuse	#	#
Scarring	#	#
Aneurysm	#	#
Failed Sterilization	#	#
Reduced Life Expectancy	#	#
Addiction/Dependency	#	#

Table 2: Analysis of Primary Injury for Successful Claims Closed/Settled between financial years 2018/19 and 2021/22 with damages paid for NHS patients referred to Independent Providers (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
ISP	Y

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid
----- Primary Injuries		
Respiratory Disorder/ Failure	#	#
2019/20	189	12,321,964
Adtnl/unnecessary Operation(s)	37	1,851,583
Unnecessary Pain	31	1,318,707
Pressure Sores	12	134,250
Poor Outcome - Fractures Etc.	10	307,762
Nerve Damage	10	846,423
Fracture	7	436,566
Joint Damage	6	757,851
Thrombosis/Embolism	5	319,533
Amputation - Lower	5	845,610
Burn(s)	#	#
Other Visual Problems	#	#
Cancer	#	#
Spinal Damage	#	#
Tissue Damage	#	#
Fatality	#	#
Unwanted Pregnancy	#	#
Bladder Damage	#	#
Scarring	#	#
Other Infection	#	#
Cardiac Arrest	#	#
Dislocation	#	#
Multiple Injuries	#	#
Psychiatric/Psychological Dmge	#	#
Blindness	#	#
Not Specified	#	#
Foot Drop	#	#
Bowel Damage/ Dysfunction	#	#
Bile Duct Damage	#	#
Dental Damage	#	#
Liver Damage	#	#
Compartment Syndrome	#	#
Arterial Damage	#	#
Amputation - Upper	#	#
Loss Of Baby	#	#
Other	#	#
Bruising/ Extravasation	#	#
Loss Of Sexual Function	#	#
Removal Of Cervix	#	#
Cosmetic Disfigurement	#	#
Tendon Damage	#	#
Advanced Stage Cancer	#	#
2020/21	185	13,796,553

Table 2: Analysis of Primary Injury for Successful Claims Closed/Settled between financial years 2018/19 and 2021/22 with damages paid for NHS patients referred to Independent Providers (includes the damages paid to date for any claims settled on a periodical payment order basis)

FOI View	Closed Settled
scheme	(All)
Claim_Outcome	Successful
ISP	Y

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid
----- Primary Injuries		
Adtnl/unnecessary Operation(s)	49	2,787,182
Unnecessary Pain	25	990,530
Nerve Damage	9	741,630
Fracture	8	357,143
Poor Outcome - Fractures Etc.	8	338,279
Pressure Sores	8	97,383
Other Visual Problems	7	114,745
Joint Damage	5	1,410,299
Bile Duct Damage	5	518,881
Psychiatric/Psychological Dmge	5	63,000
Dental Damage	#	#
Fistula	#	#
Burn(s)	#	#
Bowel Damage/ Dysfunction	#	#
Scarring	#	#
Other Infection	#	#
Advanced Stage Cancer	#	#
Foot Drop	#	#
Bladder Damage	#	#
Unwanted Pregnancy	#	#
Cardiac Arrest	#	#
Fatality	#	#
Incontinence	#	#
Spinal Damage	#	#
Hospital Acquired Infection	#	#
Removal Of Testicle	#	#
Tissue Damage	#	#
Dislocation	#	#
Cancer	#	#
Multiple Injuries	#	#
Infertility	#	#
Loss Of Baby	#	#
Blindness	#	#
Oedema	#	#
Loss Of Kidney	#	#
Amputation - Lower	#	#
Rupture	#	#
Paraplegia	#	#
Tendon Damage	#	#
Stroke	#	#
Multiple Disabilities	#	#
Cosmetic Disfigurement	#	#
Scalp Damage	#	#
Bruising/ Extravasation	#	#

Table 2: Analysis of Primary Injury for Successful Claims Closed/Settled between financial years 2018/19 and 2021/22 with damages paid for NHS patients referred to Independent Providers (includes the damages paid to date for any claims settled on a periodical payment order basis)

FOI View	Closed Settled
scheme	(All)
Claim_Outcome	Successful
ISP	Y

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid
----- Primary Injuries		
Thrombosis/Embolism	#	#
2021/22	221	18,134,477
Adtnl/unnecessary Operation(s)	72	3,545,262
Unnecessary Pain	29	2,177,658
Pressure Sores	9	284,361
Nerve Damage	8	2,170,432
Poor Outcome - Fractures Etc.	8	1,286,574
Joint Damage	6	1,779,192
Fracture	6	745,844
Burn(s)	5	45,950
Bladder Damage	5	241,746
Scarring	5	72,165
Other Visual Problems	5	248,000
Tendon Damage	#	#
Spinal Damage	#	#
Bile Duct Damage	#	#
Other	#	#
Cancer	#	#
Psychiatric/Psychological Dmge	#	#
Amputation - Lower	#	#
Tissue Damage	#	#
Other Infection	#	#
Blindness	#	#
Thrombosis/Embolism	#	#
Perforation	#	#
Bowel Damage/ Dysfunction	#	#
Infection (bacterial)	#	#
Amputation - Upper	#	#
Fatality	#	#
Hernia	#	#
Foot Drop	#	#
Rupture	#	#
Epilepsy	#	#
Hospital Acquired Infection	#	#
Dental Damage	#	#
Impotence	#	#
Unwanted Pregnancy	#	#
Removal Of Fallopian Tube	#	#
Multiple Injuries	#	#
Dislocation	#	#
Advanced Stage Cancer	#	#
Cardiovascular Condition	#	#
Renal Damage/ Failure	#	#
Removal Of Testicle	#	#

Table 2: Analysis of Primary Injury for Successful Claims Closed/Settled between financial years 2018/19 and 2021/22 with damages paid for NHS patients referred to Independent Providers (includes the damages paid to date for any claims settled on a periodical payment order basis)

FOI View	Closed Settled
scheme	(All)
Claim_Outcome	Successful
ISP	Y

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid
----- Primary Injuries		
Oedema	#	#
Osteoporosis	#	#
Anaesthetic	#	#
Not Specified	#	#
Cardiac Arrest	#	#
Grand Total	791	54,052,423