



Resolution

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April 2023
FOI_5850

The following information was requested on 22 February 2023:

Can you please advise:

- How many claims have your received resulting from a Data Breach Incident since 2018.
(Please give numbers per year)*
- How many of these claims were upheld and compensation was awarded.*
- How much compensation has been paid per year.*
- What is the average compensation per claim is per year.*

Our Response

Please find attached the requested information. 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.

Please note: The number of claims received does not mean that there were the same number of data breaches within the NHS.

A single data breach can affect a large number of individuals and result in multiple claimants (i.e. 124 claims received in these years does **not** equate to 124 data breach incidents).

Table 1 shows: - The number of Data Protection Claims and Incidents received in the last 5 years, between 2017/18 – 21/22.

Please note the data supplied with this response will not match previous similar requests. This is because some cases have been re-categorised.

For an explanation of the different schemes referred to, please visit the following web page: [Non-clinical schemes - NHS Resolution](#)

Table 2 shows: - Number and Cost of Data Protection Claims Closed between financial years 2017/18 and 2021/22 with damages paid where the Schedule is 'PL - Data Protection Act'. Breakdown by financial year and scheme.

Table 3 shows: - Number and Cost of Data Protection Claims Closed between financial years 2017/18 and 2021/22 with **NIL** damages paid where the Schedule is 'PL - Data Protection Act'. Breakdown by financial year and scheme.

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 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 Data Protection Claims and Incidents received between financial years 2017/18 and 2021/22 where the Schedule is 'PL - Data Protection Act'. Breakdown by financial year and scheme.](#)

[Table 2: Number and Cost of Data Protection Claims Closed between financial years 2017/18 and 2021/22 with damages paid where the Schedule is 'PL - Data Protection Act'. Breakdown by financial year and scheme.](#)

[Table 3: Number and Cost of Data Protection Claims Closed between financial years 2017/18 and 2021/22 with NIL damages paid where the Schedule is 'PL - Data Protection Act'. Breakdown by financial year and scheme.](#)

Table 1: Number of Data Protection Claims and Incidents received between financial years 2017/18 and 2021/22 where the Schedule is 'PL - Data Protection Act'. Breakdown by financial year and scheme.

FOI View Schedule	Notified PL - Data Protection Act
Year of Notification	No. of Claims
2017/18	
LTPS	20
2018/19	
LTPS	44
2019/20	
DH Liab	#
LTPS	112
2020/21	
DH Liab	#
LTPS	249
2021/22	
DH Liab	#
LTPS	293
Grand Total	723

Table 2: Number and Cost of Data Protection Claims Closed between financial years 2017/18 and 2021/22 with damages paid where the Schedule is 'PL - Data Protection Act'. Breakdown by financial year and scheme.

FOI View	Closed Settled
Claim_Outcome	Successful
Schedule	PL - Data Protection Act

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid	Average of Total Paid
2017/18						
LTPS	16	121,250	7,938	120,099	249,287	15,580
2018/19						
LTPS	18	71,600	8,759	46,350	126,709	7,039
2019/20						
LTPS	50	448,451	120,589	676,601	1,245,641	24,913
2020/21						
LTPS	83	300,669	609,774	1,390,672	2,301,115	27,724
2021/22						
DH Liab	#	#	#	#	#	#
LTPS	124	494,728	153,127	768,751	1,416,606	11,424

Table 3: Number and Cost of Data Protection Claims Closed between financial years 2017/18 and 2021/22 with NIL damages paid where the Schedule is 'PL - Data Protection Act'. Breakdown by financial year and scheme.

FOI View	Closed Settled
Claim_Outcome	Unsuccessful
Schedule	PL - Data Protection Act

Year of Closure (Settlement Year for PPOs)	No. of Claims	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid	Average of Total Paid
2017/18					
LTPS	#	#	#	#	#
2018/19					
LTPS	5	49,855	0	49,855	9,971
2019/20					
LTPS	24	69,535	0	69,535	#
2020/21					
LTPS	27	36,634	0	36,634	#
2021/22					
LTPS	70	86,301	#	88,381	#