



# Resolution

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FOI\_5911

May 2023

The following information was requested on 31 March 2023:

1. The number of incidents reported to NHSR's Early Notification Scheme
2. Of those incidents reported to NHSR's Early Notification Scheme, the number which have met the scheme criteria
3. Of those incidents which have met the scheme criteria, the number where NHSR's investigation of the incident has been completed
4. Of those incidents which have met the scheme criteria, the number where NHSR's investigation of the incident has begun, but has not yet been completed
5. Of those cases where the investigation has been completed, the number in which it was determined that the care provided had fallen below a reasonable standard
6. Of those cases where the investigation has been completed, the number in which an admission of liability has been made
7. Of those cases in which it was determined that the care provided had fallen below a reasonable standard, the number in which any financial compensation has been provided (i.e., an interim award of damages or a final award)
8. Of those cases in which it was determined that the care provided had fallen below a reasonable standard, the number in which a final settlement has been reached resulting in the award of a lump sum or PPO
9. Of those cases in which financial compensation has been provided, the total amount of compensation which has been paid.
10. Of those cases in which financial compensation has been provided, the average time it has taken from notification of the incident to the provision of financial compensation
11. Of those cases where the investigation has been completed, the number in which it was concluded that the care provided had been reasonable

*Please provide data from 1 April 2017 to 31 March 2023.*

## **Our Response**

The dataset presented in the responses below are from 1 April 2017 to 31 March 2022. Data for the financial year 2022/23 is still subject to audit, and is not yet available. This information will be available on request from July 2023.

1. *The number of incidents reported to NHSR's Early Notification Scheme.*

The total number of incidents reported into the Early Notification scheme by NHS Trusts is **2,942**. Some additional points to note:

- The Early Notification scheme (ENS) introduced a system of early liability investigations for families who require resolution and support after poor intrapartum outcomes, as well as sharing system learning for improvement nationally. However, experience from NHS Resolution (and the Healthcare Safety Investigation Branch, HSIB) has recognised that the initial reporting criteria into the ENS (based on the Each Baby Counts (EBC) criteria) was very wide capturing a large number of babies (around 700 cases per year) but lacked specificity for the core objectives of the scheme, particularly given that only a small number (estimated to be around 10%) have evidence of a confirmed brain injury;
- Not all notifications will be accepted as they may not meet the ENS criteria;
- Not all of these incidents will be investigated (more information on what is meant by investigation is explained at '3' below);
- Not all of these incidents are classified as 'claims', however this number of incidents were reported into the scheme via the reporting system between Trusts and NHS Resolution.

2. *Of those incidents reported to NHSR's Early Notification Scheme, the number which have met the scheme criteria.*

The number of incidents which have met the scheme's initial criteria based on RCOG EBC is **2,711**.

3. *Of those incidents which have met the scheme criteria, the number where NHSR's investigation of the incident has been completed.*

**1833** incidents have had their "investigation" into the standard of care marked as complete. The meaning of "investigation" includes cases identified as:

- initially meeting the EN criteria but on further review had not and therefore were closed;
- those where liability has been repudiated (no breach or causation could be identified) and then closed;
- following an internal clinical triage substandard care has not been confirmed;
- an admission of breach has been made (where causation and quantum investigations continue);
- an admission of liability has been made and discussions continue;

This therefore provides a mixed response as to "completed" investigations as some continue to remain open and live.

4. *Of those incidents which have met the scheme criteria, the number where NHSR's investigation of the incident has begun, but has not yet been completed.*

**878** investigations are not yet completed.

A number of these will include "investigations" involving:

- Incidents entering the scheme and undergoing clinical triage;
- Incidents awaiting HSIB reports or medical records for clinical review and application of the EN scheme definition;
- Incidents being investigated by our panel firms;

In addition, a number of these investigations will now be reviewed in line with the new EN working definition of brain injury and therefore these investigations may be subject to closure or progress depending on its outcome.

5. *Of those cases where the investigation has been completed, the number in which it was determined that the care provided had fallen below a reasonable standard.*

**263** cases it was determined that the care provided had fallen below a reasonable standard. Some of these investigations may still be ongoing. This number relates to those cases where a breach of duty has been established. Not all such cases will go on to have causation admissions made.

6. *Of those cases where the investigation has been completed, the number in which an admission of liability has been made?*

**100** cases have been admitted (i.e. both breach of duty and causation of injury).

7. *Of those cases in which it was determined that the care provided had fallen below a reasonable standard, the number in which any financial compensation has been provided (i.e. an interim award of damages or a final award).*

**53** cases of those identified in Q5 above have had financial compensation provided, including interim payments.

8. *Of those cases in which it was determined that the care provided had fallen below a reasonable standard, the number in which a final settlement has been reached resulting in the award of a lump sum or PPO.*

**8** cases of those identified in Q5 above have had a final settlement resulting in the award of a lump sum. No PPO's have been awarded.

9. *Of those cases in which financial compensation has been provided, the total amount of compensation which has been paid.*

Of those cases identified in Q7, a total of **£15,626,818.19** in compensation has been paid.

*10. Of those cases in which financial compensation has been provided, the average time it has taken from notification of the incident to the provision of financial compensation*

**2.43 years** is the average time taken from notification of the incident to when a damages payment has been made, either by way of an interim payment or final award.

*11. Of those cases where the investigation has been completed, the number in which it was concluded that the care provided had been reasonable.*

**1570** investigations have closed where it was concluded that the care was reasonable.

For further information about our Early Notification Scheme please see: [Early Notification Scheme](#).

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  
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