



Resolution

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April 2023
FOI_5934

The following information was requested on 14 April 2023:

1. *In relation to the (i) (2020/21) and (ii) 2021/22 financial year please state how many claims you paid out where the injury code has been “wrongful birth” and what was the total paid out in damages and the total in costs for those claims. Please state how many of the claims involved the birth of children who were healthy, how much the damages were for those cases and what the total sum paid out was in those cases.*

NOTE: The breakdown per year should be on the basis of the year in which the payment was made regardless of when the incident took place or when the claim was lodged.

Our Response

Please find attached our response to your request. We have produced this report along the same lines as our response to: [FOI 5031 Wrongful-Birth.pdf \(resolution.nhs.uk\)](#)

It should be noted that we define “wrongful birth” as a clinical negligence claim brought by the parents of a child born with birth defects, alleging that negligent treatment or advice deprived them of the opportunity to avoid conception or terminate the pregnancy.

Our coding does not enable us to distinguish whether the claims related to birth of children who were healthy.

It is possible there are other cases which have been coded under less specific codes that relate to incidents under the more general umbrella of ‘parents not having been warned that the child would be born with a specific disability’ for reasons other than failed screenings. Therefore, on the issue of data quality, it should be noted that the database was designed primarily as a claims management tool rather than for research purposes, that it records only a limited amount of information, and that a claim may be multi-factorial and/or settled on a number of bases. It is our view, therefore, that the figures provided should be treated with caution and that they should not be relied on as a basis for audit or research.

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. 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 between financial years 2020/21 and 2021/22 with damages paid where an injury is '**Wrongful Birth**' or '**Unwanted Pregnancy**'. Breakdown by year of closure.

The data shows variation in numbers of cases closed per year and costs attributed to those claims. This is a reflection of the nature of individual claims received and resolved by NHS Resolution, which can vary significantly. As such, these fluctuations cannot be interpreted as trends.

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 and Cost of Claims Closed between financial years 2020/21 and 2021/22 with damages paid where an injury is 'Wrongful Birth' or 'Unwanted Pregnancy'. Breakdown by year of closure.](#)

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FOI View	Closed Settled
Claim_Outcome	Successful

Year of Closure (Settlement Year for PPOs)	Wrongful Birth	Unwanted Pregnancy	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2020/21	10	15	34,762,637	1,224,784	4,923,474	40,910,894
2021/22	13	12	68,248,246	1,421,948	6,520,628	76,190,822
Grand Total	23	27	103,010,883	2,646,731	11,444,102	117,101,716