



Resolution

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July 2023
FOI_5927

The following information was requested on 12 April 2023:

Follow up to [FOI 5862](#)

I see that the University of Sheffield discovered through FOI data supplied by NHSR that 1229 claims by NHS staff for asbestos related mesothelioma were made between 2004 and 2019.

Combined with other source material this suggests that between 2018 and 2019, 268 claims were made against the NHS for mesothelioma.

That is, the data supplied to me by NHSR on 4 April 2023 was unsurprisingly, clearly incorrect in that it omitted any data on claims for mesothelioma, as well as the raft of other coded conditions missing from the FOI disclosure.

I am very concerned by the inaccuracy and withheld data.

Please could NHSR please supply me with all the missing data without any further delay.

Where no claims were genuinely received for any coded category, please actively and clearly indicate this with a zero statistic, so that NHSR is actively taking responsibility for the statistic.

Our Response

We understand your reference to the previous FOI request to be reference to FOI_3992. Please note there was a revised version of FOI_3992, which you may not be aware of, therefore we attach the revised version of FOI_3992v6. However, please note that FOI_3992 will not include Public Liability claims.

NB: We have recently changed the way we report on our FOIs to align better with our published documents. Streamlining our reporting on FOIs with our annual published reports may mean a variation in snapshot dates. This means this data may not align with previous similar requests and it may not be possible for you to compare this information with a previous request. For further information, please refer to <https://resolution.nhs.uk/resources/understanding-nhs-resolution-data>.

As we explained in our response to [FOI 5862](#) in certain categories e.g. injury, our Claims database allows more than **one** response to be selected. Therefore, there can

be e.g. primary, secondary and tertiary injuries related to the same case, depending on the circumstances of the individual claim. It is also worthy of note that not **all** claims will have a second and tertiary injury code, which is the reason the total claim volumes do not add up, for example table 1 and table 5 in the attached do not have the same grand totals.

Mesothelioma related claims (employment liability only claims) have not been excluded from the data in [FOI 5862](#), the reason it has not been shown on those tables is due to the specific injury field it is coded in. For instance, the primary code that Mesothelioma claims falls under would be '**Injuries to Internal Organs**'. You will note that 'Injuries to Internal Organs' does appear in the report we provided you with on 4 April 2023.

However, we accept that you would have preferred to see injuries such as Mesothelioma in the report disclosed with FOI_5862. We are unable to breakdown the LTPS injuries in this way as we can only search for certain injuries by carrying out a specific search for that injury alone, as we will need to remove some of the other claims that would fall under the parent/primary code.

By way of advice and assistance and further to our obligations under s. 16 FOIA, NHS Resolution manages a number of risk-pooling schemes (similar to insurance) for the NHS, one of which is the Liability to Third Parties Scheme (LTPS). This covers both employers' liability (i.e. in relation to duties of care owed to employees) and public liability (i.e. in relation to duties of care owed other patients, visitors and other members of the public). You can find out more about the LTPS scheme here: [Liabilities to Third Parties Scheme - NHS Resolution](#)

In addition, we manage one other non-clinical scheme:

DHSC Non-clinical which covers non-clinical negligence liabilities that have transferred to the Secretary of State for Health and Social Care following the abolition of any relevant health bodies.

To ensure we have captured all relevant claims, we have re-run the report for FOI_5862 and broken it down by employers' liability, and public liability and DHSC Non-clinical.

We have also produced a separate table (**table 13**) attached with this response with the number of Mesothelioma claims received in the last 4 years broken down by scheme and liability type. Please note table 13 relates only to Mesothelioma claims and not **all** other 'Injuries to Internal Organs' injuries.

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 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: - The number of LTPS and DH Liability Claims and Incidents received in financial year 2018/19, where the liability type is Employer or Public Liability, broken down by specified **Primary Injuries** and Liability Type.

Table 2 shows: - The number of LTPS and DH Liability Claims and Incidents received in financial year 2019/20, where the liability type is Employer or Public Liability, broken down by specified **Primary Injuries** and Liability Type.

Table 3 shows: - The number of LTPS and DH Liability Claims and Incidents received in financial year 2020/21, where the liability type is Employer or Public Liability, broken down by specified **Primary Injuries** and Liability Type.

Table 4 shows: - The number of LTPS and DH Liability Claims and Incidents received in financial year 2021/22, where the liability type is Employer or Public Liability, broken down by specified **Primary Injuries** and Liability Type.

Table 5 shows: - The number of LTPS and DH Liability Claims and Incidents received in financial year 2018/19, where the liability type is Employer or Public Liability, broken down by specified **Secondary Injuries** and Liability Type.

Table 6 shows: - The number of LTPS and DH Liability Claims and Incidents received in financial year 2019/20, where the liability type is Employer or Public Liability, broken down by specified **Secondary Injuries** and Liability Type.

Table 7 shows: - The number of LTPS and DH Liability Claims and Incidents received in financial year 2020/21, where the liability type is Employer or Public Liability, broken down by specified **Secondary Injuries** and Liability Type.

Table 8 shows: - The number of LTPS and DH Liability Claims and Incidents received in financial year 2021/22, where the liability type is Employer or Public Liability, broken down by specified **Secondary Injuries** and Liability Type.

Table 9 shows: - The number of LTPS and DH Liability Claims and Incidents received in financial year 2018/19, where the liability type is Employer or Public Liability, broken down by specified **Tertiary Injuries** and Liability Type.

Table 10 shows: - The number of LTPS and DH Liability Claims and Incidents received in financial year 2019/20, where the liability type is Employer or Public Liability, broken down by specified **Tertiary Injuries** and Liability Type.

Table 11 shows: - The Number of LTPS and DH Liability Claims and Incidents received in financial year 2020/21, where the liability type is Employer or Public Liability, broken down by specified **Tertiary Injuries** and Liability Type.

Table 12 shows: - The number of LTPS and DH Liability Claims and Incidents received in financial year 2021/22, where the liability type is Employer or Public Liability, broken down by specified **Tertiary Injuries** and Liability Type.

Table 13 shows: - Number of LTPS and DH Liability Claims and Incidents received between financial years 2018/19 and 2021/22, where any Injury level is "**Mesothelioma**" and Liability type is Employer or Public Liability, broken down by Scheme and liability type.

For an explanation of the different schemes, please refer to: [Non-clinical schemes - NHS Resolution](#)

Low figures

We have not provided the information for low figures involved 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.

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.

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Table 8: Number of LTPS and DH Liab Claims and Incidents received in financial year 2021/22, where the liability type is Employer or Public Liability, broken down by specified Secondary Injuries and Liability Type

Table 9: Number of LTPS and DH Liab Claims and Incidents received in financial year 2018/19, where the liability type is Employer or Public Liability, broken down by specified Tertiary Injuries and Liability Type

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Table 13: Number of LTPS and DH Liab Claims and Incidents received between financial years 2018/19 and 2021/22, where any Injury level is "Mesothelioma" and Liability type is Employer or Public Liability, broken down by Scheme and liability type.

Table 1: Number of LTPS and DH Liab Claims and Incidents received in financial year 2018/19, where the liability type is Employer or Public Liability, broken down by specified Primary Injuries and Liability Type

FOI View	Notified
reportingYear	2018/19
LegacyIndustrialDisease	(All)

No. of Claims Primary Injury ---Liability Type	Scheme	
	LTPS	DH Liab
Burns		
EL	45	0
PL	6	0
Damage		
PL	49	0
Damage to Hair		
PL	#	0
Facial Injuries		
EL	144	0
PL	55	0
Fatality		
PL	14	0
Head Injuries		
EL	126	0
PL	59	0
Injuries affecting the senses		
EL	28	7
PL	5	0
Injuries to Internal Organs		
EL	79	44
PL	19	6
Orthopaedic Injuries		
EL	1,795	#
PL	608	0
Other		
EL	6	0
PL	9	5
Psychiatric Damage		
EL	119	0
PL	233	0
Scarring (Except Facial)		
EL	8	0
PL	#	0
Sickness/Disease		
EL	40	0
PL	5	0
Unknown		
EL	#	0
PL	#	0
Grand Total	3,461	#

Table 2: Number of LTPS and DH Liab Claims and Incidents received in financial year 2019/20, where the liability type is Employer or Public Liability, broken down by specified Primary Injuries and Liability Type

FOI View		Notified	
reportingYear		2019/20	
No. of Claims Primary Injury ---Liability Type	Scheme		
	LTPS	DH Liab	
Burns			
EL	43	0	
PL	5	0	
Damage			
EL	7	0	
PL	39	0	
Damage to Hair			
EL	#	0	
Facial Injuries			
EL	164	0	
PL	56	0	
Fatality			
PL	11	#	
Head Injuries			
EL	153	0	
PL	76	0	
Injuries affecting the senses			
EL	17	#	
PL	#	#	
Injuries to Internal Organs			
EL	78	36	
PL	15	8	
Orthopaedic Injuries			
EL	1,862	#	
PL	650	#	
Other			
EL	6	0	
PL	10	10	
Psychiatric Damage			
EL	128	0	
PL	286	#	
Scarring (Except Facial)			
EL	6	0	
PL	#	0	
Sickness/Disease			
EL	18	0	
PL	#	0	
Unknown			
EL	#	0	
PL	#	0	
Grand Total	3,643	67	

Table 3: Number of LTPS and DH Liab Claims and Incidents received in financial year 2020/21, where the liability type is Employer or Public Liability, broken down by specified Primary Injuries and Liability Type

FOI View reportingYear	Notified 2020/21		
No. of Claims Primary Injury ---Liability Type	Scheme		
	LTPS	DH Liab	
Burns			
EL	25	0	
PL	10	0	
Damage			
EL	6	0	
PL	37	0	
Damage to Hair			
EL	#	0	
Facial Injuries			
EL	127	0	
PL	28	0	
Fatality			
EL	5	0	
PL	12	#	
Head Injuries			
EL	128	0	
PL	64	#	
Injuries affecting the senses			
EL	15	#	
PL	#	0	
Injuries to Internal Organs			
EL	67	39	
PL	6	#	
Orthopaedic Injuries			
EL	1,236	#	
PL	377	0	
Other			
EL	#	0	
PL	16	9	
Psychiatric Damage			
EL	88	0	
PL	364	#	
Scarring (Except Facial)			
EL	12	0	
PL	#	0	
Sickness/Disease			
EL	31	0	
PL	#	0	
Unknown			
EL	5	0	
PL	#	#	
Grand Total	2,676	59	

Table 4: Number of LTPS and DH Liab Claims and Incidents received in financial year 2021/22, where the liability type is Employer or Public Liability, broken down by specified Primary Injuries and Liability Type

FOI View reportingYear	Notified 2021/22	Scheme No. of Claims	
Primary Injury ---Liability Type	LTPS	DH Liab	
Orthopaedic Injuries			
EL	1,427	0	
PL	423	0	
Psychiatric Damage			
EL	86	0	
PL	515	#	
Head Injuries			
EL	138	0	
PL	53	#	
Facial Injuries			
EL	137	0	
PL	30	0	
Injuries to Internal Organs			
EL	67	34	
PL	8	6	
Injuries affecting the senses			
EL	25	6	
PL	8	0	
Damage			
EL	#	0	
PL	30	#	
Other			
EL	8	0	
PL	16	5	
Fatality			
EL	11	0	
PL	11	0	
Sickness/Disease			
EL	16	0	
PL	#	0	
Burns			
EL	16	#	
PL	#	0	
Scarring (Except Facial)			
EL	6	0	
PL	#	0	
Unknown			
EL	#	0	

Table 4: Number of LTPS and DH Liab Claims and Incidents received in financial year 2021/22, where the liability type is Employer or Public Liability, broken down by specified Primary Injuries and Liability Type

FOI View reportingYear	Notified 2021/22
Scheme	
PL	# 0
Damage to Hair	
EL	# 0
PL	# 0
Injuries Involving Paralysis	
PL	# 0
Grand Total	3,045 58

Table 5: Number of LTPS and DH Liab Claims and Incidents received in financial year 2018/19, where the liability type is Employer or Public Liability, broken down by specified Secondary Injuries and Liability Type

FOI View reportingYear	Notified 2018/19
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Secondary Injury ---Liability Type	Scheme No. of Claims	
	LTPS	DH Liab
Orthopaedic Injuries		
EL	699	0
PL	273	0
Psychiatric Damage		
EL	120	0
PL	27	#
Facial Injuries		
EL	46	0
PL	27	0
Head Injuries		
EL	50	0
PL	19	0
Injuries to Internal Organs		
EL	18	0
PL	8	0
Injuries affecting the senses		
EL	11	0
PL	#	0
Scarring (Except Facial)		
EL	5	0
PL	6	0
Other		
EL	#	0
PL	#	0
Burns		
EL	#	0
Damage to Hair		
EL	#	0
Grand Total	1,323	#

Table 6: Number of LTPS and DH Liab Claims and Incidents received in financial year 2019/20, where the liability type is Employer or Public Liability, broken down by specified Secondary Injuries and Liability Type

FOI View reportingYear	Notified 2019/20
------------------------	------------------

Secondary Injury ---Liability Type	Scheme No. of Claims	
	LTPS	DH Liab
Orthopaedic Injuries		
EL	708	0
PL	296	0
Psychiatric Damage		
EL	138	0
PL	20	0
Facial Injuries		
EL	73	0
PL	23	0
Head Injuries		
EL	37	0
PL	21	0
Injuries to Internal Organs		
EL	16	#
PL	10	0
Injuries affecting the senses		
EL	11	#
PL	#	0
Scarring (Except Facial)		
EL	5	0
PL	6	0
Other		
PL	#	0
Damage		
EL	#	0
Damage to Hair		
EL	#	0
Burns		
EL	#	0
Grand Total	1,372	#

Table 7: Number of LTPS and DH Liab Claims and Incidents received in financial year 2020/21, where the liability type is Employer or Public Liability, broken down by specified Secondary Injuries and Liability Type

FOI View reportingYear	Notified 2020/21	Scheme No. of Claims	
Secondary Injury ---Liability Type	LTPS	DH Liab	
Orthopaedic Injuries			
EL	514	0	
PL	197	#	
Psychiatric Damage			
EL	94	0	
PL	29	0	
Facial Injuries			
EL	43	0	
PL	14	0	
Head Injuries			
EL	39	0	
PL	17	0	
Injuries to Internal Organs			
EL	18	#	
PL	6	0	
Injuries affecting the senses			
EL	8	0	
PL	#	0	
Other			
EL	7	0	
PL	#	0	
Scarring (Except Facial)			
EL	#	0	
PL	#	0	
Damage			
PL	#	0	
Sickness/Disease			
EL	#	0	
PL	#	0	
Burns			
EL	#	0	
Damage to Hair			
EL	#	0	
Fatality			
PL	#	0	
Grand Total	1,005	#	

Table 8: Number of LTPS and DH Liab Claims and Incidents received in financial year 2021/22, where the liability type is Employer or Public Liability, broken down by specified Secondary Injuries and Liability Type

FOI View reportingYear	Notified 2021/22
------------------------	------------------

Secondary Injury ---Liability Type	Scheme No. of Claims	
	LTPS	DH Liab
Orthopaedic Injuries		
EL	592	0
PL	195	0
Psychiatric Damage		
EL	119	0
PL	28	0
Facial Injuries		
EL	40	0
PL	18	0
Head Injuries		
EL	45	0
PL	12	0
Injuries to Internal Organs		
EL	13	0
PL	9	0
Injuries affecting the senses		
EL	14	#
PL	#	0
Scarring (Except Facial)		
EL	#	0
PL	#	0
Other		
EL	#	0
PL	#	0
Burns		
EL	#	0
PL	#	0
Damage		
PL	#	0
Unknown		
	#	0
Sickness/Disease		
EL	#	0
Grand Total	1,104	#

Table 9: Number of LTPS and DH Liab Claims and Incidents received in financial year 2018/19, where the liability type is Employer or Public Liability, broken down by specified Tertiary Injuries and Liability Type

FOI View	Notified
reportingYear	2018/19

Tertiary Injury ---Liability Type	Scheme No. of Claims	
	LTPS	DH Liab
Orthopaedic Injuries		
EL	273	0
PL	121	0
Psychiatric Damage		
EL	52	0
PL	14	0
Facial Injuries		
EL	23	0
PL	5	0
Head Injuries		
EL	11	0
PL	14	0
Injuries to Internal Organs		
EL	11	0
PL	#	0
Other		
EL	#	0
PL	#	0
Scarring (Except Facial)		
EL	#	0
Burns		
EL	#	0
Injuries affecting the senses		
EL	#	0
PL	#	0
Sickness/Disease		
PL	#	0
Damage to Hair		
EL	#	0
Grand Total	540	0

Table 10: Number of LTPS and DH Liab Claims and Incidents received in financial year 2019/20, where the liability type is Employer or Public Liability, broken down by specified Tertiary Injuries and Liability Type

FOI View	Notified
reportingYear	2019/20

Tertiary Injury ---Liability Type	Scheme No. of Claims	
	LTPS	DH Liab
Orthopaedic Injuries		
EL	264	0
PL	125	0
Psychiatric Damage		
EL	44	0
PL	8	0
Head Injuries		
EL	19	0
PL	13	0
Facial Injuries		
EL	14	0
PL	7	0
Injuries to Internal Organs		
EL	11	0
PL	#	0
Injuries affecting the senses		
EL	5	0
PL	#	0
Damage to Hair		
EL	#	0
PL	#	0
Scarring (Except Facial)		
EL	#	0
PL	#	0
Other		
EL	#	0
Grand Total	520	0

Table 11: Number of LTPS and DH Liab Claims and Incidents received in financial year 2020/21, where the liability type is Employer or Public Liability, broken down by specified Tertiary Injuries and Liability Type

FOI View	Notified
reportingYear	2020/21

Tertiary Injury ---Liability Type	Scheme No. of Claims	
	LTPS	DH Liab
Orthopaedic Injuries		
EL	209	0
PL	82	0
Psychiatric Damage		
EL	49	0
PL	10	0
Head Injuries		
EL	15	0
PL	9	0
Facial Injuries		
EL	10	0
PL	#	0
Injuries to Internal Organs		
EL	6	0
PL	#	0
Other		
EL	#	0
PL	#	0
Injuries affecting the senses		
EL	#	0
Scarring (Except Facial)		
EL	#	0
Fatality		
PL	#	0
Damage to Hair		
PL	#	0
Damage		
PL	#	0
Grand Total	409	0

Table 12: Number of LTPS and DH Liab Claims and Incidents received in financial year 2021/22, where the liability type is Employer or Public Liability, broken down by specified Tertiary Injuries and Liability Type

FOI View	Notified
reportingYear	2021/22

Tertiary Injury ---Liability Type	Scheme No. of Claims	
	LTPS	DH Liab
Orthopaedic Injuries		
EL	262	0
PL	84	0
Psychiatric Damage		
EL	41	0
PL	12	0
Head Injuries		
EL	21	0
PL	5	0
Injuries to Internal Organs		
EL	7	0
PL	#	0
Facial Injuries		
EL	9	0
Injuries affecting the senses		
EL	#	0
PL	#	0
Scarring (Except Facial)		
EL	#	0
PL	#	0
Damage to Hair		
EL	#	0
Grand Total	453	0

Table 13: Number of LTPS and DH Liab Claims and Incidents received between financial years 2018/19 and 2021/22, where any Injury level is "Mesothelioma" and Liability type is Employer or Public Liability, broken down by Scheme and liability type.

FOI View	Notified
Mesothelioma	Y

No. of Claims Year of Notification ---Liability Type	Scheme	
	LTPS	DH Liab
2018/19		
EL	16	36
PL	#	5
2019/20		
EL	5	22
PL	#	8
2020/21		
EL	5	30
PL	0	#
2021/22		
EL	11	30
PL	#	5
Grand Total	43	#