



Resolution

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September 2022
FOI_5542

The following information was requested on 19 August 2022:

- 1. Please provide me with a table showing how many successful claims were lodged against each individual NHS hospital trust for the total of the last ten financial years (2009/10 to 2020/21 inclusive) where one of the injury codes was a hospital acquired infection. Only include trusts where there were ten successful claims or more.*
- 2. For the ten hospital trusts with the most claims please state what the total amount of damages was that were awarded to the patients for those ten years from each of those trusts.*
- 3. Please could you provide me with a breakdown of payments made under the CNST scheme where injury 1, 2 or 3 is for Hospital Acquired Infection (HAI) for 2020/21. This should include the number of successful claims, the damages paid and the costs for both defendant and claimant.*
- 4. How many claims has NHS Resolution received where one of the injury codes a patient claims to have suffered from because of NHS negligence is Covid-19? What is the status of these claims? I.e. How many have been received, how many have been rejected, how many has it been accepted that the NHS was at fault, how much in damages has been paid out on these successful claims?*

Our Response

Please find attached the requested information for Qs 1-3.

Table 1 shows:- Number of CNST Claims and costs paid for closed claims between financial years 2009/10 - 2020/21 with damages paid (includes the damages paid to date for any claims settled on a periodical payment order basis) where one of the injury code is '**Hospital Acquired Infection**' - against trusts with 10 or more claims.

Tables 2 shows:- Number and Cost of CNST Claims Closed with damages paid in 2020/21 where one of the Injury codes is '**Hospital Acquired Infection**'.

We have provided data in relation to cases closed in the relevant years. Please note that claims notified/received are not guaranteed to be settled 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

In response to **Q4** – *How many claims has NHS Resolution received where one of the injury codes a patient claims to have suffered from because of NHS negligence is Covid-19?*

We are unable to answer this request, as we do not have an injury code for Covid-19 as an injury.

We are unable to provide this information without interrogating individual claims files. Although NHS Resolution may hold some information relating to claims such as what you have requested (England only claims), due to the way claims are recorded on our claims database, we will not be able to identify such specific cases. It might be helpful to explain that when claims are notified to NHS Resolution they are categorised against pre-defined cause, injury and speciality codes. Unfortunately, we do not have a code that would allow us to readily extract claims *where one of the injury codes a patient claims to have suffered from because of NHS negligence is Covid-19*. Therefore, while there may be information held in our records, we are not readily able to identify the relevant files by searching the database. To do so would involve a manual review of all cases to identify the claims *where one of the injury codes a patient claims to have suffered from because of NHS negligence is Covid-19*. We estimate we would need to spend approximately 10 minutes reviewing each claims file to identify and extract the relevant information. This would be in addition to the time already taken to provide the data that is disclosed with this response.

Therefore, we estimate that the cost of complying with the request in its entirety would exceed the 'appropriate limit'. Section 12(1) of the FOIA is a provision, which allows a public authority to refuse to comply with a request for information where the cost of compliance is estimated to exceed a set limit (known as the 'appropriate limit'). The 'appropriate limit' for NHS Resolution is £450. This equates to 18 hours of work at the rate of £25 per hour set out in the 'Fees Regulations'.

As noted in our [Annual report and Accounts](#) page 19, it is too early to determine the impact from Covid-19 on future claims volumes and values due to normal time lags in claims being lodged – averaging 3.1 years. We continue to monitor the potential impact of future Covid-19 related claims associated with risks arising from delayed or missed treatments, and recovery in NHS activity rates, while adjusting future claims projections. In 2021/22, we received 22 claims related to Covid-19 under CNSC, an increase of just 15 from seven in the previous year, and it is therefore too early to draw conclusions about future trends related to these claims given their low volumes to date.

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 of CNST Claims and costs paid for closed claims between financial years 2009/10 to 2020/21 with damages paid (includes the damages paid to date for any claims settled on a periodical payment order basis) where one of the injury code is 'Hospital Acquired Infection' - against trusts with 10 or more claims

Table 2: Number and Cost of CNST Claims Closed with damages paid in 2020/21 where one of the Injury codes is 'Hospital Acquired Infection'

Table 1: Number of CNST Claims and costs paid for closed claims between financial years 2009/10 to 2020/21 with damages paid (includes the damages paid to date for any claims settled on a periodical payment order basis) where one of the injury code is 'Hospital Acquired Infection' - against trusts with 10 or more claims

| | |
|----------------------|--------------|
| Closed_Settled | Y |
| Scheme | CNST |
| Clinical_NonClinical | Clinical |
| Claim_Outcome_FOI | Damages Paid |

| Year of Closure (Settlement Year for PPOs) ----- Member Name | No. of Claims | Damages Paid | NHS Legal Costs Paid | Claimant Legal Costs Paid | Total Paid |
|---|---------------|------------------|----------------------|---------------------------|-------------------|
| Maidstone and Tunbridge Wells NHS Trust | 28 | 2,513,497 | 325,002 | 683,000 | 3,521,498 |
| Mid Staffordshire NHS Foundation Trust | 15 | 462,767 | 37,208 | 219,543 | 719,517 |
| The Leeds Teaching Hospitals NHS Trust | 14 | 1,109,364 | 182,830 | 620,296 | 1,912,489 |
| University Hospitals Birmingham NHS Foundation Trust | 14 | 457,582 | 129,095 | 472,887 | 1,059,564 |
| East Sussex Healthcare NHS Trust | 12 | 233,069 | 116,831 | 141,000 | 490,900 |
| Northern Lincolnshire & Goole Hospitals NHS Foundation Trust | 11 | 563,100 | 116,661 | 346,110 | 1,025,871 |
| University Hospitals Sussex NHS Foundation Trust | 11 | 1,431,042 | 221,036 | 468,576 | 2,120,654 |
| Liverpool University Hospitals NHS Foundation Trust | 11 | 878,443 | 218,552 | 687,565 | 1,784,560 |
| Northern Care Alliance NHS Foundation Trust | 11 | 305,507 | 120,286 | 295,719 | 721,512 |
| East Lancashire Hospitals NHS Trust | 10 | 1,265,850 | 91,628 | 348,791 | 1,706,269 |
| Grand Total | 137 | 9,220,220 | 1,559,128 | 4,283,487 | 15,062,834 |

Table 2: Number and Cost of CNST Claims Closed with damages paid in 2020/21 where one of the Injury codes is 'Hospital Acquired Infection'

| | |
|----------------------|--------------|
| Closed_Settled | Y |
| Scheme | CNST |
| Clinical_NonClinical | Clinical |
| Claim_Outcome_FOI | Damages Paid |

| Year of Closure (Settlement Year for PPOs) | No. of Claims | Damages Paid | NHS Legal Costs Paid | Claimant Legal Costs Paid | Total Paid |
|--|---------------|-------------------|----------------------|---------------------------|-------------------|
| 2020/21 | 21 | 10,664,450 | 631,178 | 2,281,125 | 13,576,753 |
| Grand Total | 21 | 10,664,450 | 631,178 | 2,281,125 | 13,576,753 |