



# Resolution

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FOI\_5968

The following information was requested on 15 May 2023:

*Does NHSR hold data on the number stillbirth and early neonatal death cases which have resulted in litigation and if they were successful or settled?*

*Figures over the last two financial years (2021/22 and 2020/21).*

## Our Response

Please find attached the requested information. This information only covers England and not the rest of the UK.

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. Claims closed in any given year will often relate to claims received/notified many years prior.

**Table 1 shows:** - Number and Cost of Clinical Claims Closed between financial years 2020/21 and 2021/22 with damages paid where injury is **Stillborn** or **Neonatal Death** or **Loss of Baby**.

**Table 2 shows:** - Number and Cost of Clinical Claims Closed between financial years 2020/21 and 2021/22 with **NIL** damages paid where injury is **Stillborn** or **Neonatal Death** or **Loss of Baby**.

## 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, 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 Clinical Claims Closed between financial years 2020/21 and 2021/22 with damages paid where injury is Stillborn, Neonatal Death or Loss of Baby](#)

[Table 2: Number and Cost of Clinical Claims Closed between financial years 2020/21 and 2021/22 with NIL damages paid where injury is Stillborn, Neonatal Death or Loss of Baby](#)

**Table 1: Number and Cost of Clinical Claims Closed between financial years 2020/21 and 2021/22 with damages paid where injury is Stillborn, Neonatal Death or Loss of Baby**

FOI View scheme	Closed Settled (All)
Claim_Outcome	Successful

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
<b>2020/21</b>					
Neonatal Death	46	2,645,196	495,104	2,425,672	5,565,971
Stillborn	86	4,539,211	525,881	3,267,225	8,332,316
Loss of Baby	#	#	#	#	#
<b>2021/22</b>					
Neonatal Death	53	3,710,170	933,798	3,403,440	8,047,408
Stillborn	103	5,299,759	729,616	4,775,499	10,804,874
Loss of Baby	9	701,000	101,495	429,500	1,231,995

**Table 2: Number and Cost of Clinical Claims Closed between financial years 2020/21 and 2021/22 with NIL damages paid where injury is Stillborn, Neonatal Death or Loss of Baby**

FOI View scheme	Closed Settled (All)
Claim_Outcome	Unsuccessful

Year of Closure (Settlement Year for PPOs)	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid
<b>2020/21</b>				
Neonatal Death	20	0	110,762	0
Stillborn	33	0	94,665	#
Loss of Baby	#	#	#	#
<b>2021/22</b>				
Neonatal Death	26	0	116,389	0
Stillborn	37	0	151,277	0
Loss of Baby	#	#	#	#
<b>Grand Total</b>	<b>124</b>	<b>0</b>	<b>490,075</b>	<b>#</b>