



Resolution

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January 2024
FOI_6348

The following information was requested and clarified on 2 January 2024:

[On 2 January 2024 you requested]

- 1. What was the total number of successful clinical negligence claims related to stillbirths against NHS trusts in England per annum in 2023 and 2022? Please provide the data broken down by year and NHS trust.*
- 2. What was the total sum paid out in successful and settled clinical negligence claims related to stillbirths against NHS trusts in England per annum in 2023 and 2022? Please provide the data broken down by year and NHS trust.*
- 3. What was the total number of successful clinical negligence claims related to cerebral palsy against NHS trusts in England per annum in 2023 and 2022? Please provide the data broken down by year and NHS trust.*
- 4. What was the total sum paid out in successful and settled clinical negligence claims related to cerebral palsy against NHS trusts in England per annum in 2023 and 2022? Please provide the data broken down by year and NHS trust.*

[On 2 January 2024 we explained]

Thank you for your request. Before we can respond, please, could you clarify the date range for your request?

We are able to provide information in financial years, i.e. 2021/22 to 2022/23. Would you be interested in these two financial years?

Please note, data for the financial year 2023/24 is not yet available. This information will be available on request from August 2024.

Your request will be put on hold until we receive the clarification requested above.

[On 2 January 2024 you replied with]

Yes, please provide the figures for financial years 2021/22 to 2022/23.

I will revert back in August for the 2023/24 figures.

Our Response

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>.

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 and close. They are not guaranteed to be settled and closed in the same year. As such, there will be a time gap between incident and claim closure.

Due to the way in which data is extracted, it is also possible that the same claim may appear more than once in a dataset, across different year groups e.g. where the case has been closed (as nil damages payment), challenged, reopened and closed again at conclusion.

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.

Please find attached the requested information.

Table 1 shows: - Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2021/22 and 2022/23 with a damages payment, where any of the injury is '**Stillbirth**', broken down by Member with 5 or more claims. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Table 2 shows: - Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) between financial years 2021/22 and 2022/23 with a damages payment, where any of the injury is '**Cerebral Palsy or Brain Damage**', broken down by Member with 5 or more claims. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Please note Claims recorded against the Department of Health and Social Care (showing as Department of Health) include liabilities arising from defunct NHS organisations, which transferred to the Secretary of State for Health and Social Care when those organisations were abolished. These also include NHS clinical negligence

claims made against current and former GP members of medical defence organisations (currently MDDUS and MPS only) in respect of liabilities incurred before 1 April 2019. These are managed under ELSGP. Please see our website for details ([Existing Liabilities Scheme for General Practice - NHS Resolution](#)).

Please note: these tables should not be interpreted as a league table. Larger member organisations and those which provide more complex treatments may receive more claims than smaller organisations or those providing low risk care. Inevitably, different institutions face different levels of risk because of the variations in the nature and complexity of the procedures they perform.

PPOs

The information disclosed includes damages and costs paid up to the end of the settlement year (in Periodical payment order (PPO) cases) and up to the end of the closure year in non-PPO cases.

PPOs are an agreement between the parties, to pay an initial lump sum and regular future payments (PPO damages) related to the injured party's ongoing needs, usually care for life i.e., a percentage of the full value of the claim is paid at the point of settlement (lump sum damages) with the balance paid at regular intervals over subsequent years. The information disclosed includes lump sum damages, costs and any PPO damages paid up to the end of the year of settlement. It does not include PPO damages, which have been committed to but due to be paid after the settlement year.

Low figures

We have not provided the information for low figures involved or the names of Trusts with fewer than 5 claims, 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.

Table 1: Number and Cost of Clinical Claims Closed between financial years '2021/22' and '2022/23' with a damages payment, where the Injury is 'Stillborn' at any level. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

Table 2: Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) between financial years '2021/22' and '2022/23' with a damages payment, where the Injury is Cerebral Palsy or Brain Damage at any level. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

Table 1: Number and Cost of Clinical Claims Closed between financial years '2021/22' and '2022/23' with a damages payment, where the Injury is 'Stillborn' at any level. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure.

FOI View	Closed Settled
Clinical	Clinical
Claim_Outcome	Successful
ConcatInjuryAll	(Multiple Items)

Year of Closure	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2021/22					
Trusts where the number of claims is <5 (63 in total)	103	5,299,759	729,616	4,775,499	10,804,874
2022/23					
Trusts where the number of claims is <5 (56 in total)	83	8,122,249	956,364	4,828,374	13,906,987
Barts Health NHS Trust	5	196,000	19,756	290,550	506,306
Grand Total	191	13,618,008	1,705,736	9,894,422	25,218,167

Table 2: Number and Cost of Clinical Claims Closed (or settled with a periodical payment order) between financial years '2021/22' and '2022/23' with a damages payment, where the Injury is Cerebral Palsy or Brain Damage at any level. The data includes the damages and legal costs paid up until the end of each relevant financial year of closure, or for PPO matters, year of settlement.

FOI View	Closed Settled
Clinical	Clinical
Claim_Outcome	Successful
CP/BD Latest	Y

Year of Closure	No. of Claims	Damages Paid	NHS Legal Costs Paid	Claimant Legal Costs Paid	Total Paid
2021/22					
Trusts where the number of claims is <5 (99 in total)	175	370,185,234	14,851,652	44,928,061	429,964,947
London North West University Healthcare NHS Trust	8	21,483,175	767,066	4,149,258	26,399,499
Imperial College Healthcare NHS Trust	6	18,427,132	674,515	2,363,500	21,465,147
Department of Health	#	#	#	#	#
DH CL	#	#	#	#	#
ELSGP	13	9,468,035	414,117	1,874,999	11,757,150
Barts Health NHS Trust	6	16,990,010	633,023	2,384,000	20,007,033
University Hospitals Birmingham NHS Foundation Trust	7	15,668,391	616,310	1,904,707	18,189,408
University Hospitals of Leicester NHS Trust	5	13,222,076	419,052	890,000	14,531,128
Birmingham Women's and Children's NHS Foundation Trust	5	11,175,279	327,576	924,000	12,426,855
Surrey and Sussex Healthcare NHS Trust	5	10,299,853	247,869	1,059,000	11,606,722
Oxford University Hospitals NHS Foundation Trust	6	9,658,147	337,649	1,027,000	11,022,796
King's College Hospital NHS Foundation Trust	6	8,258,773	480,542	1,503,350	10,242,665
Northern Care Alliance NHS Foundation Trust	6	8,358,595	377,944	1,190,468	9,927,007
2022/23					
Trusts where the number of claims is <5 (102 in total)	212	432,904,844	18,951,836	55,717,034	507,573,715
Mid and South Essex NHS Foundation Trust	6	30,764,569	1,156,377	3,371,500	35,292,446
Barts Health NHS Trust	9	29,735,642	1,373,790	3,491,000	34,600,432
Barking, Havering and Redbridge University Hospitals NHS Trust	6	30,508,108	901,922	2,723,855	34,133,884
Department of Health	14	28,252,148	1,085,798	4,024,937	33,362,883
DH CL	7	26,593,000	891,026	3,236,537	30,720,563
ELSGP	7	1,659,148	194,772	788,400	2,642,320
University Hospitals Sussex NHS Foundation Trust	8	25,472,114	1,036,986	3,321,429	29,830,529
Sheffield Teaching Hospitals NHS Foundation Trust	7	21,027,416	648,008	1,639,436	23,314,860
Hampshire Hospitals NHS Foundation Trust	5	18,381,328	541,275	1,674,000	20,596,603
Mid Yorkshire Hospitals NHS Trust (The)	5	15,918,987	622,030	1,665,603	18,206,619
University Hospitals Birmingham NHS Foundation Trust	7	14,959,665	563,030	1,321,825	16,844,520
University Hospitals Coventry & Warwickshire NHS Trust	6	14,250,324	567,445	1,838,000	16,655,769
University Hospital Southampton NHS Foundation Trust	5	9,401,375	351,284	1,089,200	10,841,859