



Resolution

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April 2020
FOI 4558

The following information was requested on 28 April 2020:

I would like to make a request for accessing this data, only for the purpose of writing up an article on an 'update of medicolegal aspects in foot and ankle surgery'. This is intended for a peer-reviewed journal for the benefit of other foot and ankle/orthopaedic surgeons in order to provide the most up-to-date available information on medicolegal aspects of our clinical practice. I assure that only the relevant information will be abstracted and presented with appropriate reference. I also assure you regarding the confidentiality of this information, as the only intention to request this information is for educational purpose.

Our Response

Thank you for your request. Although NHS Resolution may hold some information relating to claims such as these, 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 cause code to identify *foot and ankle surgery*. We can search using **Orthopaedic Speciality** which could cover more than foot and ankle surgery. 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 review of all cases to identify which ones relate to claims involving *foot and ankle surgery*. NHS Resolution receives thousands of claims each year.

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'.

We estimate that it would take on average 10 minutes to locate, retrieve and extract the requested information from an individual file. It may therefore be the case that we would be able to examine only 108 files within 18 hours.

In addition, given the complexity of clinical negligence claims and their litigation, it is possible for a single electronic or paper-based file to contain hundreds of documents in a variety of formats. Please also note even if we were able to carry out a review of 108 random files we may not be able to provide you with the level of detail you require owing to Data Protection grounds.

If you would like to know how data is categorised in our Claims database please see the following link:

<https://resolution.nhs.uk/wp-content/uploads/2018/10/Guidance-note-Understanding-NHS-Resolution-data-v2.pdf>

In order to provide advice and assistance, it would be helpful for you to review the work of the [Getting It Right First Time team](#) with whom NHS Resolution has been working to undertake in-depth analysis on orthopaedic claims, amongst other specialities. They have produced a number of reports from analysing our claims data which has been shared through a confidentiality advisory group approval.

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](#), Head of Corporate and Information Governance 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/>