

Freedom of Information request 70-17

Request

In accordance with FOI, please answer the following questions.

1. How much have you paid out in compensation to patients (including legal fees to patients' representatives) in the last five years?
2. Can you provide a year by year breakdown for those figures (either calendar or financial year, whatever is easier to you)?
3. Can you provide the three highest compensation awards paid out, including if possible, the date the compensation was awarded, a brief summary of the incident leading to the need for a compensation award, and the amount paid in legal fees to the patients' representatives?
4. Can you also provide the three highest legal fees paid to patients' representatives, the associated compensation award in each case, the date the compensation was awarded, and a brief summary of the incident leading to the need for a compensation award?

Response

1&2 Please find below data as per request:

| Financial Year | Amount paid to Patients as compensation (incl Legal Fees) | No of Claims paid |
|-------------------|---|-------------------|
| 2010-11 | £304,229 | 8 |
| 2011-12 | £87,499 | <5 |
| 2012-13 | £24,462 | <5 |
| 2013-14 | £193,110 | <5 |
| 2014-15 | £2,746,470 | <5 |
| 2015-16 | £1,125,326 | 14 |
| 2016-17 to Dec 16 | £356,293 | 7 |

3&4 Due to the small number of claims and given the rarity of such cases and the small populations in our rural communities, we believe the identity of the claimant would be well known and release of this information would lead to the amount they were awarded being made public. Information about individuals health and healthcare is personal information and is protected by the Data Protection Act 1998 and is exempt under Section 38(2)(a) Personal Information of the Freedom of Information (Scotland) Act 2002. We are therefore withholding this level of detail.

If you are not satisfied with the way your request has been handled or the decision given, you may ask NHS Borders to review its actions and the decision. If you would like to request a review please apply in writing to, Freedom of Information Review, NHS Borders, Room 2EC3, Education Centre, Borders General Hospital, Melrose, TD6 9BS or foi.enquiries@borders.scot.nhs.uk.

The request for a review should include your name and address for correspondence, the request for information to which the request relates and the issue which you wish to be reviewed. Please state the reference number **70-17** on this request. Your request should be made within 40 working days from receipt of this letter.

If following this review, you remain dissatisfied with the outcome, you may appeal to the Scottish Information Commissioner and request an investigation of your complaint. Your request to the Scottish Information Commissioner should be in writing (or other permanent form), stating your name and an address for correspondence. You should provide the details of the request and your reasons for dissatisfaction with both the original response by NHS Borders and your reasons for dissatisfaction with the outcome of the internal review. Your application for an investigation by the Scottish Information Commissioner must be made within six months of your receipt of the response with which you are dissatisfied. The address for the Office of the Scottish Information Commissioner is, Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife.