

LEARNING FROM LAWSUITS: HOW DOES PAEDIATRIC SURGERY COMPARE TO OTHER SURGICAL DISCIPLINES?

Kathryn Ford¹, Lilli Cooper²

¹King's College Hospital, London, UK, ²Queen Victoria Hospital, East Grinstead, UK

Aim: Medico-legal claims are a drain on NHS resources and promote defensive practice. This report aims to describe trends in paediatric surgery (PS) claims in comparison to the 10 other surgical specialties (as defined by the Royal College of Surgeons of England).

Methods: Data were requested for all claims received by the NHS Litigation Authority (NHSLA) from 2004 - 2014. Surgical specialties included paediatric, cardiothoracic, general, neurosurgery, obstetric, oral and maxillofacial (OMFS), orthopaedic, otorhinolaryngology, plastic, urology and vascular surgery. Inter-specialty comparative analysis was conducted including total number, cost and outcome of claims, leading causes of successful claim and time to settlement.

Results: The NHS paid out approximately £1.5 billion across 11 surgical specialties from 2004 - 2014. PS claims took the longest to settle (mean 35 months cf. pan-specialty mean 25.5 months, range 17.8 – 35 months).

PS received the least number of claims (n=62) and paid out the least in settlement costs (£2.3 million) over the 10-year period, though it did not pay out the least per claim (£33,941 cf. OMFS £18,946 and plastics £27,013) (Figure 1).

The three leading causes for successful claim in PS were: failure/delay in treatment (22.6%), intra-operative problems (11.3%) and delay in performing operation (9.7%). Overall, 806 never events were successfully claimed for during the 10-year period, 3 of which were in PS (wrong site surgery (n=1), retained foreign body/instrument (n=2), 4.8% of total PS claims). The specialty with with the highest number of never event claims was obstetrics (retained foreign body/instrument, n=277, 8.8% of total claims).

Conclusion: For the first time, a pan-specialty comparison of litigation claims has been conducted using NHSLA data. For paediatric surgery, unreasonable delay in treatment/surgery accounted for a majority of successful claims. This must be recognized during strategic planning in the current climate of centralisation of specialist services.

FIGURE 1: Inter-surgical specialty comparison of the total amount paid to successful claimants (left y axis, black columns) and the average payment per claim (right y axis, red dots) in damages from 2004 - 2014

