Freedom of Information Request

Reference Number: EPUT.FOI.19.1279
Date Received: 19 October 2019

Information Requested:

I am writing to request information under Freedom of Information laws.

May you please provide the following:

1) The total amount of compensation payments paid out to NHS staff
   a. May you please provide the figures per year within the past three financial years (2019/18, 2018/17, and 2017/2016)
   b. i.e. in 2018/17, the Trust paid out 10 compensation claims to staff

   • In 2016/17, the Trust paid out 10 compensation claims to staff
   • In 2017/18, the Trust paid out 7 compensation claims to staff
   • In 2018/19, the Trust paid out 13 compensation claims to staff

2) The total cost of compensation payments paid out to NHS staff
   a. May you please provide the figures per year within the past three financial years (2019/18, 2018/17, and 2017/2016)
   b. i.e. in 2018/17, the Trust paid out 10 compensation claims amounting to £35,000

   • In 2016/17, the Trust paid out 10 compensation claims to staff amounting to £171,975.20
   • In 2017/18, the Trust paid out 7 compensation claims to staff £111,376.75
   • In 2018/19, the Trust paid out 13 compensation claims to staff £938,455.10

   Please note that the total costs provided are inclusive of claimant’s costs, defence costs and damages paid to the claimant directly.

3) In each instance, may you please further detail on the nature/ reason behind the compensation payments for example, exposure to toxic substances, assaults from patients, slips / falls on the ward
   a. i.e. in 2018/17, the Trust paid out 10 compensation claims amounting to £35,000. 6 claims related to exposure of toxic substances and 4 claims related to individuals who suffered slips/ falls on the ward
   b. If you believe the contents of any such files are exempt from disclosure, please provide summaries of any such exempt files.

   • In 2016/17, the Trust paid out 10 compensation claims to staff amounting to £171,975.20. The claims were made up of 1 manual handling, 4 assaults, 4 slip/trips, 1 hit by object
   • In 2017/18, the Trust paid out 7 compensation claims to staff £111,376.75. The claims were made up of 1 defective equipment, 3 slip/trips, 1 sharps injury, 1 manual handling and 1 assault
• In 2018/19, the Trust paid out 13 compensation claims to staff £938,455.10. The claims were made up of 5 assaults, 3 slip/trip, 1 manual handling, 2 workplace stress, 1 unlawful detention and 1 breach of COSHH.

The Trust is unable to give any further claim details as we believe that disclosure of information with this level of granularity is exempt under Section 40(2) by virtue of section 40(3) (a) (i) 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.

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); The Trust believes it has a greater responsibility to protect those individuals identities’, as disclosure could potentially cause damage and/or distress to those involved.

Applied Exemption:

**Exemption: Section 40: Personal information**

1. Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

2. Any information to which a request for information relates is also exempt information if—
   
   (a) it constitutes personal data which do not fall within subsection (1), and

   (b) either the first or the second condition below is satisfied.

3. The first condition is—
   
   (a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 2018, that the disclosure of the information to a member of the public otherwise than under this Act would contravene—

   (i) any of the data protection principles, or

   (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and

   (b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the
exemptions in section 33A(1) of the Data Protection Act 2018 (which relate to manual data held by public authorities) were disregarded.

(4) The second condition is that by virtue of any provision of Part IV of the Data Protection Act 2018 the information is exempt from section 7(1)(c) of that Act (data subject’s right of access to personal data).

(5) The duty to confirm or deny—

(a) does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1), and

(b) does not arise in relation to other information if or to the extent that either—

(i) the giving to a member of the public of the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene any of the data protection principles or section 10 of the Data Protection Act 2018 or would do so if the exemptions in section 33A(1) of that Act were disregarded, or

(ii) by virtue of any provision of Part IV of the Data Protection Act 2018 the information is exempt from section 7(1)(a) of that Act (data subject’s right to be informed whether personal data being processed).

(6) In determining for the purposes of this section whether anything done before 24th October 2007 would contravene any of the data protection principles, the exemptions in Part III of Schedule 8 to the Data Protection Act 2018 shall be disregarded.

(7) In this section—“the data protection principles” means the principles set out in Part I of Schedule 1 to the Data Protection Act 2018, as read subject to Part II of that Schedule and section 27(1) of that Act;

- “data subject” has the same meaning as in section 1(1) of that Act;
- “personal data” has the same meaning as in section 1(1) of that Act.

Publication Scheme:
As part of the Freedom of Information Act all public organisations are required to proactively publish certain classes of information on a Publication Scheme. A publication scheme is a guide to the information that is held by the organisation. EPUT’s Publication Scheme is located on its Website at the following link https://eput.nhs.uk