

Freedom of Information Request

Reference Number: EPUT.FOI.19.1331
Date Received: 29 November 2019

Information Requested:

Compromise agreements by Essex Partnership University NHS Foundation Trust (including its predecessor bodies)

1. Please advise how many compromise agreements the trust has entered into since 1 April 2013.

Year	Number
2013	7
2014	4
2015	4
2016	3
2017	8
2018	2
2019	1

2. Can the trust confirm that it adopted the NHS policy of inserting a clause into compromise agreements to make it clear that workers or former workers are not prevented by compromise agreements from making public interest disclosures?

Yes

3. If so, when did the trust adopt this policy?

Unknown – The Trust has always had a clause relating to that set out in the NHS Policy in compromise agreements going back to 2013

4. How many of the compromise agreements reached by the trust since 1 April 2013 contained a clause which made it clear that the worker or former worker in question was not prevented by the agreement from making public interest disclosures?

All compromise agreements since 2013 have contained a clause relating to confidentiality and non-prevention clause to disclose information which is in the public domain or under the PIDA or other obligations concerning patient safety and care and obligations set out by statutory bodies

5. If the trust has inserted such a clause into its compromise agreements, please provide a copy of the relevant clause.

The clause is part of a confidential agreement and particular to the individuals signing the agreement and therefore disclosure could be classed as breach therefore we are applying a Section 40 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:

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