

Freedom of Information Request

Reference Number: EPUT.FOI.23.2834
Date Received: 13 February 2023

Information Requested:

1. How many members of your workforce (both staff and volunteers) require a DBS check?
6768
2. How many members of your workforce (both staff and volunteers) who require a DBS check have not been DBS checked for 3 years?
2943. Please note as per Trust policy and procedure, The Trust does not require DBS checks to be renewed. The Trust has in place a process where randomly selected employees are rechecked on a 3 yearly basis.

All relevant staff within the organisation are re-checked if they are moving to a new job role within the Trust if their current DBS is more than 3 years old.

3. How many members of your workforce (both staff and volunteers) who require a DBS check have never been DBS checked.
267. This figure includes Staff who are international recruits who have joined the Trust through International recruitment and are not required to have DBS checks upon employment. These international recruits have an international police check in place and will be DBS checked in the first 12 months of employment. The figure also includes new starters whose checks are in progress and have risk assessed waivers in place and have the required supervision in place when working with patients until the DBS check has been completed.
4. In the past ten years how many members of your workforce have been found guilty of sexual misconduct at a misconduct hearing?
EPUT was only founded in April 2017 and therefore we only have data available from April 2017

Since April 2017 to date, a total of 9 employees of EPUT have had allegations of sexual is conduct found to have been proven which resulted in a sanction.

5. Of those, how many were referred to the DBS?
≤5. Please note that the Trust's policy is not to provide patient or staff numbers, where the response is less than or equal to five (≤5) as it would potentially allow identification of the individual patient/staff and would therefore be personal data.

The Trust considers that release of that information would breach GDPR/DPA18 principles on the grounds that it would not be fair in all the circumstances. This information is therefore exempt under section 40 of the FOI Act 2000.

Note – these cases have been reviewed against the two conditions that must be met under the ‘legal duty to refer’, where these conditions have not been met a referral to DBS has not been made.

Where allegations relating to misconduct involved a registered clinician the decision to make a referral to the relevant professional body (e.g. NMC) has been made by the Trust’s appropriate professional adviser(s).

6. In instances where a member of your workforce was found guilty of sexual misconduct at a misconduct hearing but not referred by the Trust to the DBS, please share a summary of the allegation they were found guilty of.

8 Engaged in a personal relationship with a patient or inappropriate sexual/physical behaviour towards a patient or staff member.

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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>