

Freedom of Information Request

Reference Number: EPUT.FOI.23.3041
Date Received: 3rd of July 2023

Information Requested:

Please provide me with the below information under the FOI Act.

Essex Partnership University NHS Foundation Trust takes all reports of sexual misconduct seriously and all reports are recorded pending thorough investigation and regardless of outcome. All staff have a professional duty to report concerns and a lot of work has taken place across the Trust to build a culture in which colleagues and patients are encouraged to report concerns via our Freedom to Speak Up network and Patient Liaison Service in addition to our formal incident reporting systems.

Clear systems are in place to ensure all reported incidents are recorded and investigated swiftly and all staff take regular mandatory safeguarding training reminding them of the importance of reporting concerns and how to do so.

The Trust records all aspects of Sexual misconduct and violence under the 'Sexual Safety' Category on its Risk Management system. The following data is the appropriate sub categories relevant to the request received.

Sexual misconduct covers a broad range of inappropriate, unwanted sexual behaviour. From the most severe forms of sexual violence, including rape and sexual assault, it also extends across to sexual harassment, stalking, and abusive or degrading remarks.

The NHS definition of sexual violence describes it as any sexual act that a person did not consent to, or is forced into against their will, including rape, sexual assault, unwanted sexual touching, forced kissing, child sexual abuse, sexual torture and other sexual offences

1. How many breaches of the single sex ward policy have been recorded (patients being placed on a mixed ward) in each of the following years: 2019-20, 2020-21, 2021-22, and 2022-23

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.

The information below was submitted to NHSE:

2019-20 = 0

2020-21 = <5

2021-22 = 0

2022-23 = 0

2. How many mixed sex communal areas and mixed sex wards are in operation at the trust?

19

3. How many sexual assaults and incidents of rape have been recorded on a mixed sex ward and separately mixed sex communal areas for the following years: 2019-20, 2020-21, 2021-22, 2022-23 (if possible please differentiate between male and female victims)

We can neither confirm nor deny whether some of the information you have requested is held by the Trust in its entirety in regards to gender. This is because the information requested is not held in an easily retrievable format, but may be recorded in individual records. In order to confirm whether this information is held we would therefore have to individually access all records within the Trust and extract the information where it is present. We therefore estimate that complying with your request is exempt under section 12 of the FOI Act: cost of compliance is excessive. The section 12 exemption applies when it is estimated a request will take in excess of 18 hours to complete. We estimate that accessing and reviewing all the records and then extracting relevant information would take longer than the 18 hours allowed for.

However, we can provide sexual assault data for the years you have requested. The Trust believes that this information is publicly available on the <https://eput.nhs.uk/media/lecfzsxy/eput-foi-22-2648-response.pdf> for the years 2019-20, 2020-21, 2021-22, <https://eput.nhs.uk/media/jhneorea/eput-foi-23-2800.pdf> for the years 2022 - January 2023 and <https://eput.nhs.uk/media/lcvnodxw/eput-foi-23-2971.pdf> for the years January 2023 - May 2023 website and therefore is applying a Section 21 exemption of the Act (Information accessible to applicant by other means):

4. How many incidents of sexual assault and or rape have been recorded in relation to female patients in the following years: 2019-20, 2020-21, 2021-22, and 2022-23?

We can neither confirm nor deny whether some of the information you have requested is held by the Trust in its entirety in regards to gender. This is because the information requested is not held in an easily retrievable format, but may be recorded in individual records. In order to confirm whether this information is held we would therefore have to individually access all records within the Trust and extract the information where it is present. We therefore estimate that complying with your request is exempt under section 12 of the FOI Act: cost of compliance is excessive. The section 12 exemption applies when it is estimated a request will take in excess of 18 hours to complete. We estimate that accessing and reviewing all the records and then extracting relevant information would take longer than the 18 hours allowed for.

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5. How many reports have been made to the police in relation to the sexual assault and or rape of female patients in the following years: 2019-20, 2020-21, 2021-22, and 2022-23?

We can neither confirm nor deny whether some of the information you have requested is held by the Trust in its entirety in regards to gender. This is because the information requested is not held in an easily retrievable format, but may be recorded in individual records. In order to confirm whether this information is held we would therefore have to individually access all records within the Trust and extract the information where it is present. We therefore estimate that complying with your request is exempt under section

12 of the FOI Act: cost of compliance is excessive. The section 12 exemption applies when it is estimated a request will take in excess of 18 hours to complete. We estimate that accessing and reviewing all the records and then extracting relevant information would take longer than the 18 hours allowed for.

Applied 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>