

Freedom of Information Request

Reference Number: EPUT.FOI.23.3091
Date Received: 11th of August 2023

Information Requested:

I have some questions in relation to a doctor, Dr Kolade Ige, at Rochford Community Hospital, Rochford.

1. How many complaints were made to you, in total, about this doctor? To the GMC (of which you are aware)?
2. The nature of the complaints.
3. When was the first complaint made?
4. Were there any deaths due to this doctor's incompetence?
5. How many of this doctor's patients died a) while a patient and b) within one year of being treated by him?
6. Did this doctor or hospital/trust ever go to court as a result of his work as a doctor; if so, how many times?
7. If the doctor did go to court, please provide the court name/s and case number/s.

I repeat all the questions above in relation to Dr Vimal Sivasanker working at your hospital in Basildon.

Questions 1 – 3

Essex Partnership University NHS Foundation Trust (the 'Trust') is unable to provide the data requested as this information would constitute the personal data of the individuals identified. Even confirming or denying whether such information is held will involve the release of personal data relating to those individuals.

In reaching this decision the Trust has considered whether disclosure of the information requested to the world at large would amount to a breach of the data protection principles under the UK General Data Protection Regulation. The factors in favour of even confirming or denying whether such information is held are that there is a public interest in transparency, and disclosure of the information requested would further that transparency. However, the Trust is also required to consider the rights and freedoms and legitimate interests of the clinicians. The types of information requested is not information that would normally be put into the public domain as a matter of routine. Additionally the type of information requested is of the nature which the clinicians would expect to be kept confidential, and the Trust as employer owes an obligation of confidence to its staff.

The Trust acknowledges this is not absolute and disclosure could nevertheless be lawful if there is a sufficient public interest in disclosure. However, weighing up the competing rights and interests, we are satisfied that to confirm or deny that the information is held would be a breach of the data protection principles and so we can neither confirm nor deny whether such information is held, and are exempt from the requirement to answer these requests further by virtue of section 40(5B)(a) of the Freedom of Information Act 2000 ('FOIA').

For the sake of clarity the Trust is mindful of and has applied in principles explained in decision IC-218871-N6B8. However, a key factor in that case was that it related to a clinician where the GMC register recorded that there were conditions on the individual's licence to practise. That is not the case here.

Questions 4 and 5

The Trust notes the applicant's use of the word 'incompetent' in question 4 and would ask that the applicant refrains from such abusive language in the future. The question the Trust has considered and responded to is "Were there any patient deaths whilst the patient was under the care of Dr Kolade Ige or under the care of Dr Vimal Sivasanker?"

This information is not collected centrally and the Trust considers the information to be exempt pursuant to section 12 of the FOIA. Section 12(1) of the FOIA allows the Trust to refuse an FOI request where the cost of compliance is estimated to exceed the appropriate limit. The appropriate limit for section 12 purposes is defined by The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulation 2004 SI 2004 No 3244 ('Fees Regulation').

Under regulation 3 of the Fees Regulation, the appropriate cost limit for the Trust is £450. The Fees Regulation also states that all authorities should calculate the time spent on the permitted activities at the flat rate of £25 per person, per hour. This means that the appropriate limit will be exceeded if it would require more than 18 hours' work for the Trust to carry out the following activities in complying with the request:

- determining whether the information is held;
- locating the information, or a document containing it;
- retrieving the information, or a document containing it; and
- extracting the information from a document containing it.

In order to retrieve and extract the data requested, the Trust will need to look at hundreds of patients' records. This will need to be done manually as the data requested is not held in a searchable central format. The Trust estimates that in order to get the information you have requested it would take a member of staff on average 10 minutes to review one set of records. Even if the search is limited to the last 500 patients treated by each of the named individuals, it would take in excess of 166 hours to retrieve and extract the requested information.

Therefore the information requested is exempt pursuant to section 12 of the FOIA.

Questions 6 and 7

Trust clinicians may be required to attend court as witnesses in civil or criminal matters, or for coroner's inquests. However, information as to which clinicians have attended which court hearings is not collected centrally by the Trust. In order to answer this question it will be necessary to manually review each litigation and inquest file in order to identify whether there has been a final hearing in the matter and if so whether the individuals you identified gave evidence.

The Trust estimates that in order to get the information you have requested it would take a member of staff on average 20 minutes to review each individual inquest or litigation file. Even if the search is limited to the latest 200 files, it would take in excess of 66 hours to retrieve and extract the requested information. This is in excess of the appropriate limit of 18 man hours and accordingly the requested information is exempt pursuant to section 12 of the FOIA.

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>

Your rights

If you are not satisfied with the response to your request for information, please contact the Trust at the provided single point of contact email address:

epunft.patientsandfamily@nhs.net

If you are still not satisfied with your response, you also have the right to appeal to the Information Commissioner.

You can contact the Information Commissioner's Office online at <https://ico.org.uk/> or at the following address:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF