

Freedom of Information Request

Reference Number: EPUT.FOI.23.3093
Date Received: 16th of August 2023

Information Requested:

Please provide the following information under the FOI act:

1. Please provide information regarding complaints received by your organisation's HR department between January 2021 and August 2023 that concern senior members of staff, with suitable redactions.
For the purposes of this request, by "senior", I mean consultant-level doctors, board members, and any other staff at agenda for change grades 8a or above.
[Please see attached document.](#)
[To respond to your request for information the definition of complaint applied is as follows: Any complaint received within the organisation \(directly either by HR or by any other route\) which is sent to our HR department in an advisory capacity and investigated in accordance with the Trust's Dignity, Respect and Grievance Policy and Procedure.](#)
2. Please specify: the date of the complaint, the relationship of the complainant to the person making the report, the nature of that complaint, the complaint route and the outcome (as you can see in the example below).
[Please see attached document, the Trust considers that some of the information you have requested is exempt from disclosure on the basis of the following exemptions and has been redacted from the document:](#)

Section 40(2) of FOIA:

[The requested information contains the personal data of third parties. Disclosing this under FOIA would breach one or more of the data protection principles in the UK GDPR, in particular that personal data must be processed fairly, lawfully and in a transparent manner \(Article 5\(a\) of the UK GDPR\).](#)

3. Please also provide the total number of staff at your organisation (e.g. 5,000).

Our staffing levels fluctuate throughout the year in response to the Trust's needs and from year to year, because of this we publish average staff numbers in our Annual Reports. The Trust believes that this information is publicly available on the Essex Partnership University Trust website (see below links) and therefore is applying a Section 21 exemption of the Act (Information accessible to applicant by other means)

2021 / 2022 Page 66 - https://eput.nhs.uk/media/pk0lnk0v/essex-partnership-university-nhs-foundation-trust-annual-report-and-accounts-2021_22.pdf

2022 / 2023 Page 61 <https://eput.nhs.uk/media/xhfivye4/essex-partnership-university-nhs-foundation-trust-annual-report-and-accounts-2022-23.pdf>

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.

Section 21: Information accessible to applicant by other means.

(1) Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.

(2) For the purposes of subsection (1)—

(a) information may be reasonably accessible to the applicant even though it is accessible only on payment, and

(b) information is to be taken to be reasonably accessible to the applicant if it is information which the public authority or any other person is obliged by or under any enactment to communicate (otherwise than by making the information available for inspection) to members of the public on request, whether free of charge or on payment.

(3) For the purposes of subsection (1), information which is held by a public authority and does not fall within subsection (2)(b) is not to be regarded as reasonably accessible to the applicant merely because the information is available from the public authority itself on request, unless the information is made available in accordance with the authority's publication scheme and any payment required is specified in, or determined in accordance with, the scheme.

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>