

Freedom of Information Request

Reference Number: **EPUT.FOI.24.3325**
Date Received: **22nd January 2024**

Information Requested:

May you please supply me with the following information...?

1. The number of allegations of workplace racism reported by present and former staff. Please provide the figures for the following calendar years: 2023, 2022, 2021 and 2020
- I.e. in 2020, 20 allegations of workplace racism were made by past and present staff

We cannot provide the information requested broken down by year, as 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.

We can, however, provide the total number of workplace racism allegations reported during the past four years.

2020-2023 22 allegations of workplace racism were made by past/present staff.

2. The number of allegations of workplace racism reported by present and former staff which resulted in disciplinary action. Please provide the figures for the following calendar years: 2023, 2022, 2021 and 2020
- I.e. in 2020, 20 allegations of workplace racism were made by past and present staff, 11 complaints resulted in disciplinary actions

We cannot provide the information requested broken down by year, as 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.

We can, however, provide the total number of workplace racism allegations reported which resulted in disciplinary action during the past four years.

2020-2023 22 allegations of workplace racism were made by past/present staff, none of these results resulted in disciplinary action.

3. In instances when compensation payments were made to former and present staff following allegations of racism/ racial discrimination, please provide the figures for the following calendar years: 2023, 2022, 2021 and 2020
- i.e. in 2020, 20 allegations of workplace racism were made by past and present staff, 11 complaints resulted in disciplinary actions and in four instances the complaint was escalated to an employment tribunal, two compensation payments were paid amounting to £12,000

We cannot provide the information requested broken down by year, as 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.

We can, however, provide the total number of workplace racism allegations reported which resulted in disciplinary action during the past four years.

2020-2023 22 allegations of workplace racism were made by past/present staff, one complaint was escalated to an employment tribunal and a compensation payment was paid amounting to £8,500. Another complaint was escalated to an employment tribunal which has not yet concluded.

Please note: By workplace racism – I mean allegations made by past or present staff relating to other staff members – rather than racism incidents involving members of the public against NHS staff

Please note: if for data protection reasons you are unable to provide the figures broken down by year, please collate the figures over the four year period.
- I.e. between 1st January 2020 and 31st December 2023, the trust recorded in total 10 instances of racially motivated workplace harassment. Within that period, 5 complaints resulted in disciplinary action and 0 compensation payments were paid out.

If you believe the contents of any such files are exempt from disclosure, please provide summaries of any such exempt files.

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>