

Freedom of Information Request

Reference Number: EPUT.FOI.22.2733
Date Received: 28th of December 2023

Information Requested:

1. Between financial years 2017/2018 and 2021/2022, how many complaints of sexual misconduct were made by patients, visitors and Trust employees against staff members in your NHS Trust.

The response that the information provided is solely that where the complaint has been raised via the Trust's Complaints Policy and Procedure.

It does not reflect incidents that may have been raised, or investigated, via Safeguarding or Employee Relations procedures.

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The definition of sexual misconduct includes, but is not limited to, inappropriate comments; inappropriate touching, sexual harassment, sexual assault, indecent exposure, and rape.

2. How many of the complaints were upheld?
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.
3. What was the outcome of the upheld complaints? Outcomes can include but are not limited to verbal warning, written warning, suspension, or dismissal
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.
4. The nature of the allegation
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.
5. The gender of the complainant
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.

6. The gender of the staff member

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.

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>