

Freedom of Information Request

Reference Number: EPUT.FOI.22.2545

Date Received: 24.06.2022

Information Requested:

Please could you provide me with the following information:

- The number of offences relating to sexual misconduct (including rape, assault, groping, and sexually inappropriate language) that have been reported to your trust in the past five years (up to and including June 2022) Total 820

- A breakdown of this data which details:
 - The month and year an offence was reported
Please see attached spreadsheet

 - Who filed the report/complaint (i.e. patient, member of public, or staff member - please specify if they were aged over or under 18), what type of sexual misconduct report/complaint they filed, and who they filed the report/complaint against - i.e. Patient complaining against staff, staff complaining against staff, or staff complaining against patient?
The Trust is unable to provide all of the information requested as this would exceed the time and cost limits, as set out in the Act. The Trust is therefore applying Section 12 of the Act (Where cost of compliance exceeds appropriate limit as it is not possible to differentiate incidents as requested in Question 2 as the Trust does not record it this way under the 'Sexual Safety' category on its Risk Management system. To obtain this information would require an in depth review of each of the cases to make a subjective decision on the outcomes stipulated

 - The outcome of a reported offence - i.e. Was the alleged perpetrator disciplined? If so, how? And by whom? Was a payment made? Or, was the report/complaint dismissed?
The Trust is unable to provide all of the information requested as this would exceed the time and cost limits, as set out in the Act. The Trust is therefore applying Section 12 of the Act (Where cost of compliance exceeds appropriate limit as it is not possible to differentiate incidents as requested in Question 2 as the Trust does not record it this way under the 'Sexual Safety' category on its Risk Management system. To obtain this information would require an in depth review of each of the cases to make a subjective decision on the outcomes stipulated

 - How many and which sexual misconduct reports/complaints were reported to the police?
The Trust can confirm that it holds information falling within the scope of the request. The Trust recognises, and has taken into account when considering the request, the importance of transparency and accountability; however, the Trust considers this information to be exempt from disclosure under section 40(2) of the Freedom of Information Act 2010 (the Act), specifically as the number of incidents are very few and there is real risk of

individual staff members and patients being identified should the requested information be provided. The Trust has looked at the Office of National Statistics report Review of the Dissemination of Health Statistics: Dissemination of Health Statistics: Confidentiality Guidance (2006). In accordance with the recommendations, we have conducted a risk assessment to assess the likelihood of an attempt to identify individuals and the impact of identification on the affected individuals. We have concluded that the data you have requested falls into the high risk category of individuals being identified.

The Trust considers that identifying individual patients and employees who have had such allegations against them would be a breach of the first data protection principle, requiring that data be lawful and fair.

- The number of non-disclosure agreements your organisation holds with current or former staff which involve or relate to sexual misconduct (including rape, assault, groping, and sexually inappropriate language)?
None

Applied Exemption:

Section 12 (Exemption where cost of compliance exceeds appropriate limit):

- (1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.
- (2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.
- (3) In subsections (1) and (2) “the appropriate limit” means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.
- (4) The Secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority—
 - (a) by one person, or
 - (b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign, the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.

- (5) The Secretary of State may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated

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.
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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>