



Ref: FOIA Reference 2018/19-055

Royal Stoke University Hospital
Quality, Safety and Compliance Department
Newcastle Road
Stoke-on-Trent
Staffordshire
ST4 6QG

Date: 1st May 2018

Tel: 01782 676474
Email foi@uhn.nhs.uk

Dear

I am writing in response to your email dated 25th April 2018 (received into our office 26th April) requesting information under the Freedom of Information Act (2000) regarding Non-Disclosure Agreements.

As of 1st November 2014 University Hospitals of North Midlands NHS Trust (UHNM) manages two hospital sites – Royal Stoke University Hospital, and County Hospital (Stafford). Therefore the response below is for the two sites combined from that date where appropriate.

Q1 How many non-disclosure agreements has the authority agreed in each of the calendar years of:

- 2014
- 2015
- 2016
- 2017?

Please provide individual figures per year.

Please also provide reasons for the agreements being agreed where possible (e.g. 2 whistle-blower complaints). Please provide the total number of NDAs but also the different types of NDA agreements (e.g. whistle-blower complaint/ / sexual harassment complaint etc.).

Please make clear if the agreements concern commercial companies rather than employees

A1 We are unable to provide some of the information you require in the requested format as to release this data could lead to the identification of the person(s) involved due to the low numbers involved, and would breach the Trusts obligations under the Data Protection Act 1998. Accordingly, this aspect of your request is exempt from disclosure under the terms of Section 40(2) of the Act. *Personal information*. However as the Trust is committed to openness and transparency we can band the numbers, please refer to the attached spread sheet that you supplied.

Q2 Please provide the total amount of financial compensation awarded as part of these agreements for the entirety of this period in £.

Please provide the information in the attached spreadsheet.

"Non-disclosure agreements"

Non-Disclosure Agreements is a catch-all term for agreements that include confidentiality clauses – sometimes referred to as gagging clauses.

They are used in employment contracts for a range of purposes including, for example, protecting intellectual property, trade secrets or other confidential information such as customer details.

They are also commonly used in agreements that are reached between employers and employees when employment is terminated (known as settlement agreements).

However, there has also been criticism of their use in sexual harassment cases, with concerns that they may be used to conceal improper, discriminatory or even illegal behaviour or to impede reporting of such behaviour to the proper authorities."

Source:

<https://www.parliament.uk/business/committees/committees-a-z/commons-select/women-and-equalities-committee/news-parliament-2017/sexual-harassment-workplace-evidence-17-191/>

Authorities are duty bound to reveal these agreements under the FOIA, as made clear in this government guidance concerning NDAs.

<https://www.gov.uk/government/publications/non-disclosure-agreements/non-disclosure-agreements>

A2 The 2017/18 figures were part of a voluntary redundancy scheme which was accompanied by a settlement agreement. Specifically, this was a Mutually Agreed Redundancy Scheme (MAR scheme).

A MAR Scheme is a form of voluntary severance, designed to enable individual employees, in agreement with their employer, to choose to leave their employment voluntarily in return for a severance payment. The scheme supports employers by creating job vacancies that can be filled by redeployment of staff from other jobs or as a suitable alternative for those facing redundancy.

MAR schemes follow the principles agreed by the NHS Staff Council and the NHS terms and conditions of service and are approved by the appropriate oversight organisation, NHS Improvement.

It is important to note that confidentiality clauses contained within standard compromise agreements are not "gagging clauses". Confidentiality clauses are not intended to prohibit a member of staff or former employee from raising a genuine concern about patient safety or other issue. They are included in order to support both parties to move on after a dispute or where sensitive or personal information is involved.

Compromise agreements issued by UHNM are used appropriately and in line with guidance. They aim to ensure disputes are settled whilst maintaining a culture of openness and transparency.

*Please note that any individuals identified do not give consent for their personal data to be processed for the purposes of direct marketing.

UHNM NHS Trust is a public sector body and governed by EU law. FOI requestors should note that any new Trust requirements over the EU threshold will be subject to these regulations and will be advertised for open competition accordingly.

Where the Trust owns the copyright in information provided, you may re-use the information in line with the conditions set out in the Open Government Licence v3 which is available at <http://www.nationalarchives.gov.uk/doc/open-government-licence/version/3/>. Where information was created by third parties, you should contact them directly for permission to re-use the information.

This letter confirms the completion of this request. A log of this request and a copy of this letter will be held by the Trust.

If you have any queries related to the response provided please in the first instance contact my office.

Should you have a complaint about the response or the handling of your request, please also contact my office to request a review of this. If having exhausted the Trust's FOIA complaints process you are still not satisfied, you are entitled to approach the Information Commissioner's Office (ICO) and request an assessment of the manner in which the Trust has managed your request.

The Information Commissioner may be contacted at:

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF or via www.ico.org.uk.

If following review of the responses I can be of any further assistance please contact my secretary on 01782 676474.

Yours,

A handwritten signature in black ink, consisting of a large, stylized loop at the top and a horizontal line at the bottom.



**University Hospitals
of North Midlands**
NHS Trust

Mojgan Casillas
Interim Information Governance Manager