

Date: Friday, 24th May 2024
Our Ref: MB/CM FOI 6327

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Re: Freedom of Information Request FOI 6327

We are writing in response to your request submitted under the Freedom of Information Act, received in this office on 22nd May 2024.

Your request was as follows:

I am request for the information listed below being disclosed to be according to the freedom of information framework:

1. The current structure of Trust's in-house legal team (with structure, job description and banding);
2. Information about the governance related to all legal functions across the Trust:
 - Is/Are there any internal policies/Standard Operating Procedures related to legal functions including: employment law, data protection, claims management, coronial inquests, SENT Tribunal proceedings, Mental Health Tribunal proceedings, family law proceedings, criminal law proceedings, contracts, procurements, complaints, etc.?
 - If there are policies/Standard Operating Procedures, please provide me with the most up to date versions of all of them;
 - Is there any overarching policy related to the functions of in-house legal services within the Trust, governance structure related to this and what are areas of responsibility allocated to the in-house legal services?

I confirm that The Walton Centre NHS Foundation Trust holds the information you have requested. However, I am unable to provide you with that information as I consider that the following exemptions apply to it:

Section 12 - Requests where the cost of compliance exceeds the appropriate limit

In response to your request, whilst we hold the information requested we believe an exemption under Section 12 of the Freedom of Information Act 2000 applies to it. Section 12 of the Act allows public authorities to refuse to answer requests for information if the cost of complying would exceed the 18 hour appropriate limit prescribed in the Fees Regulations.

In order to respond to your request this would require an audit person reviewing records applicable during the years requested. The time it would take to compile and collate the activity data required by means of a manual trawl of records would be in excess of this appropriate limit.

This response therefore acts as a refusal notice under section 17 of the FOIA.

However, Section 16 of the FOIA places a duty on us to provide help and assistance where possible and I am able to

advise you that the Walton Centre NHS Foundation Trust may be able to provide some of the information you have requested if you refine the scope of your request from nine years down to one calendar year.

Coronial Inquests:

3. Number of inquests the Trust has been party to in each financial year between 2015/2016 and 2023/2024
4. Number of inquests the Trust acted via its in-house legal team in each financial year between 2015/2016 and 2023/2024
5. Number of inquests the Trust acted via instructed external legal representatives in each financial year between 2015/2016 and 2023/2024
6. Total cost of external legal representation in coronial inquests in each financial year between 2015/2016 and 2023/2024
7. Number of Prevention of Future Deaths Reports received by the Trust in each financial year between 2015/2016 and 2023/2024, with split by the coroner's area; please provide copy of each PFD report received.

[As above.](#)

Court of Protection Proceedings

1. Number of Court of Protection proceedings in which the Trust was an applicant and/or made a party to, in each financial year between 2015/2016 and 2023/2024
2. Number of Court of Protection proceedings in which the Trust acted via its in-house legal team in each financial year between 2015/2016 and 2023/2024
3. Number of Court of Protection proceedings in which the Trust instructed external legal representatives in each financial year between 2015/2016 and 2023/2024
4. Total cost of external legal representation in Court of Protection proceedings in each financial year between 2015/2016 and 2023/2024
5. Number of s49 MCA 2005 orders received by the Trust in each financial year between 2015/2016 and 2023/2024, and information whose responsible for all work and responsibilities related to the above within the Trust? Is there any policy/protocol/Standard Operating Procedure related to the above?
6. Where does the MCA Lead's function sit within the Trust and what is the interplay between the MCA Lead and in-house legal services?

[As above.](#)

High Court proceedings (inherent jurisdiction):

7. Number of High Court (inherent jurisdiction) proceedings in which the Trust acted as an applicant or was made a party to in each financial year between 2015/2016 and 2023/2024
8. Number of High Court (inherent jurisdiction) proceedings in which the Trust acted via its in-house legal team in each financial year between 2015/2016 and 2023/2024
9. 16 Number of High Court (inherent jurisdiction) proceedings in which the Trust instructed external legal representatives in each financial year between 2015/2016 and 2023/2024

10. Total cost of external legal representation in High Court (inherent jurisdiction) proceedings in each financial year between 2015/2016 and 2023/2024

As above.

High Court proceedings (judicial reviews):

11. Number of High Court (judicial reviews) cases at the pre-action protocol stage, which did not result in an application being lodged, in which the Trust was named as a defendant in each financial year between 2015/2016 and 2023/2024;

12. Number of High Court (judicial reviews) cases at the pre-action protocol stage, which did not result in an application being lodged, in which the Trust was not formally named as a defendant, but required input from Trust's legal services/external solicitor, due to the duties performed on behalf of particular Local Authority, in each financial year between 2015/2016 and 2023/2024 (please provide split by Local Authority);

13. 20. Number of High Court (judicial reviews) cases at the pre-action protocol stage, which did not result in an application being lodged, in which the Trust was not formally named as a defendant, but required input from Trust's legal services/external solicitor, due to the duties performed on behalf of particular Integrated Care Board, in each financial year between 2015/2016 and 2023/2024 (please provide split by Integrated Care Board);

14. Number of High Court (judicial reviews) proceedings in which the Trust was made a party to in each financial year between 2015/2016 and 2023/2024;

15. Number of High Court (judicial reviews) proceedings in which the Trust acted via its in-house legal team in each financial year between 2015/2016 and 2023/2024

16. Number of High Court (judicial reviews) proceedings in which the Trust instructed external legal representatives in each financial year between 2015/2016 and 2023/2024

17. Total cost of external legal representation in High Court (judicial reviews) proceedings in each financial year between 2015/2016 and 2023/2024

18. What is the governance related to the performance of the duties related to any High Court proceedings (judicial reviews), including at the pre-proceedings stage (pre-action protocol stage) within the Trust? Does the Trust have any written policy/protocol/Standard Operating Procedure outlining how to manage above cases (please provide the most up-to-date copy)? What is the system of analysing the issues raised and learning from this type of cases?

As above.

Employment law proceedings:

19. Number of employment law related at the pre-action stage, which did not result in an application being lodged, in which the Trust was named as a defendant in each financial year between 2015/2016 and 2023/2024;

20. Number of employment law related at the pre-action stage, which did not result in an application being lodged, in which the Trust was named as a defendant in each financial year between 2015/2016 and 2023/2024, by split by the type of claim (issue giving raise to the claim) made by the applicant.

21. Number of employment law related settles by the Trust, in each financial year between 2015/2016 and 2023/2024, with the clearly stated (separately) total amount of damaged agreed/paid and total cost of any legal advice/representation instructed/obtained by the Trust;

22. Number of employment law related cases lodged with the Employment Tribunal, in which the Trust was named as a

defendant, in each financial year between 2015/2016 and 2023/2024;

23. Number of employment law related cases in employment tribunal (and upper tribunal) in which the Trust acted via its in-house legal team in each financial year between 2015/2016 and 2023/2024

24. Number of employment law related cases in employment tribunal (and upper tribunal) in which the Trust instructed external legal representatives in each financial year between 2015/2016 and 2023/2024

25. Total cost of external legal representation in employment law related cases in employment tribunal (and upper tribunal) accrued in each financial year between 2015/2016 and 2023/2024.

26. Total cost of damages awarded by the employment tribunal in relation to civil employment law related claims in each financial year between 2015/2016 and 2023/2024

27. What is the governance related to the performance of the duties related to any claims, including at the pre-proceedings stage, related to employment law matters within the Trust? Does the Trust have any written policy/protocol/Standard Operating Procedure outlining how to manage above cases (please provide the most up-to-date copy)? What is the system of analysing the issues raised and learning from this type of cases?

[As above.](#)

Civil claims:

28. Number of civil claims (non-employment law related) at the pre-action stage, which did not result in an application being lodged, in which the Trust was named as a defendant in each financial year between 2015/2016 and 2023/2024;

29. Number of civil claims (non-employment law related) at the pre-action stage, which did not result in an application being lodged, in which the Trust was named as a defendant in each financial year between 2015/2016 and 2023/2024, with split by the type of claim (using the NHS Resolutions categorisation) and cause of identified;

30. Number of civil claims (non-employment law related) settled by the Trust, in each financial year between 2015/2016 and 2023/2024, with the clearly stated (separately) total amount of damaged agreed/paid and total cost of any legal advice/representation instructed/obtained by the Trust;

31. Number of civil claims (non-employment law related) lodged with the courts, in which the Trust was named as a defendant, in each financial year between 2015/2016 and 2023/2024;

32. Number of civil claims (non-employment law related) lodged with the courts, in which the Trust was named as a defendant, in which the Trust acted via its in-house legal team in each financial year between 2015/2016 and 2023/2024

33. Number of civil claims (non-employment law related) lodged with the courts, in which the Trust was named as a defendant, in which the Trust instructed external legal representatives in each financial year between 2015/2016 and 2023/2024

34. Total cost of external legal representation in civil claims (non-employment law related) in civil courts accrued in each financial year between 2015/2016 and 2023/2024

35. Total cost of damages awarded by the court in relation to civil claims (non-employment law related) in each financial year between 2015/2016 and 2023/2024

36. What is the governance related to the performance of the duties related to any claims (non-employment law related), including at the pre-proceedings stage, within the Trust? Does the Trust have any written policy/protocol/Standard Operating Procedure outlining how to manage above cases (please provide the most up-to-date copy)? What is the system of analysing the issues raised and learning from this type of cases?

As above.

Contracts:

37. Who provides legal advice and support, including drafting, reviewing and assessment of legal risks, regarding to any current and future contracts the Trust enters?
38. How does this function fit into the wider in-house legal services and the related governance framework?
39. Does the Trust entered any contracts/arrangements with any Local Authorities, pursuant to s76 National Health Service Act 2006? If yes, please provide details of the Local Authorities which the Trust has contract with.
40. If the Trust entered contracts mentioned in par 42, please elaborate what are the governance and operational arrangements related to the provision of legal advice and guidance to the staff, regarding cases where the Trust delivers duties on behalf of the Local Authority?
41. If the Trust entered contracts mentioned in par 42, please provide the copy of such contracts.
42. Does the Trust entered any contracts/arrangements with any Integrated Care Board, related to the delivery of ICB's functions regarding Continuing Healthcare (CHC) Framework? If yes, please provide details of the ICBs which the Trust has contract with.
43. If the Trust entered contracts mentioned in par 45, please elaborate what are the governance and operational arrangements related to the provision of legal advice and guidance to the staff, regarding cases where the Trust delivers functions related to CHC Framework?
44. If the Trust entered contracts mentioned in par 45, please provide the copy of such contracts.
45. Does the Trust entered any contracts/arrangements with any Integrated Care Board, related to the delivery of ICB's functions regarding s117 Mental Health Act 1983 (aftercare duty)? If yes, please provide details of the ICBs which the Trust has contract with.
46. If the Trust entered contracts mentioned in par 48, please elaborate what are the governance and operational arrangements related to the provision of legal advice and guidance to the staff, regarding cases where the Trust delivers functions related to aftercare duty?
47. If the Trust entered contracts mentioned in par 48, please provide the copy of such contracts.

As above.

Mental Health Act related:

48. What are the governance arrangements related to the performance by the Trust its duties under the Mental Health Act?
49. Who is the lead responsible for the overall governance arrangements related to the Mental Health Act?
50. What is the relationship between the MHA lead and the in-house legal services?
51. Number of MH Tribunal proceedings in which the Trust was a party to (as a Responsible Authority), in each financial year between 2015/2016 and 2023/2024
52. Number of MHA related cases in which the Trust obtained legal advice from the external legal representative, in each financial year between 2015/2016 and 2023/2024, and the cost of above advice per year.

53. Number of MH Tribunal proceedings in which the in-house legal services were instructed to represent the Trust, in each financial year between 2015/2016 and 2023/2024

54. Number of MH Tribunal proceedings in which the Trust instructed external legal representatives in each financial year between 2015/2016 and 2023/2024

[As above.](#)

SEND Cases:

55. Number of SEND Tribunal cases, in which the Trust was ordered to provide evidence, in each financial year between 2015/2016 and 2023/2024

56. What is the governance framework and internal policy related to the provision of evidence for the purpose of SEND Tribunal proceedings?

[As above.](#)

Family law proceedings:

57. Number of family law cases (private and public), in which the Trust was ordered to provide written witness statement, in each financial year between 2015/2016 and 2023/2024.

58. What is the governance framework and internal policy related to the provision of evidence for the purpose of both private and public family law proceedings?

[As above.](#)

Other:

59. Number of family law cases (private and public), within which the court issued third party disclosure order against the Trust, in each financial year between 2015/2016 and 2023/2024.

60. Number of Court of Protection related proceedings, within which the court issued third party disclosure order against the Trust, in each financial year between 2015/2016 and 2023/2024.

61. Number of immigration cases, within which the tribunal issued third party disclosure order against the Trust, in each financial year between 2015/2016 and 2023/2024.

62. Number of SEND cases, within which the tribunal issued third party disclosure order against the Trust, in each financial year between 2015/2016 and 2023/2024.

63. Number of criminal cases, within which the court ordered for the Trust to provide assessment of defendant's fitness to plea, in each financial year between 2015/2016 and 2023/2024.

64. Number of criminal cases, within which the court ordered for the Trust to provide assessment of defendant's fitness to stand trial and/or any adjustments required, in each financial year between 2015/2016 and 2023/2024.

65. Number of other type of cases (not listed above) in which the Trust obtained external legal advice, in each financial year between 2015/2016 and 2023/2024, and their cost per financial year.

[As above.](#)

Please see our response above in [blue](#).

Re-Use of Public Sector Information

All information supplied by the Trust in answering a request for information (RFI) under the Freedom of Information Act 2000 will be subject to the terms of the Re-use of Public Sector Information Regulations 2005, Statutory Instrument 2005 No. 1515 which came into effect on 1st July 2005.

Under the terms of the Regulations, the Trust will licence the re-use of any or all information supplied if being used in a form and for the purpose other than which it was originally supplied. This license for re-use will be in line with the requirements of the Regulations and the licensing terms and fees as laid down by the Office of Public Sector Information (OPSI). Most licenses will be free; however the Trust reserves the right, in certain circumstances, to charge a fee for the re-use of some information which it deems to be of commercial value.

Further information can be found at www.opsi.gov.uk where a sample license terms and fees can be found with guidance on copyright and publishing notes and a Guide to Best Practice and regulated advice and case studies, at www.opsi.gov.uk/advice/psi-regulations/index.htm

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to the Freedom of Information Office at the address above.

Please remember to quote the reference number, FOI 6327 in any future communications.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted by:

Post: Information Commissioners Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Online: <https://ico.org.uk/make-a-complaint/foi-and-eir-complaints/>

Telephone: 0303 123 1113

Yours sincerely

Mike Burns

Mr. Mike Burns, Executive Lead for Freedom of Information