

30 November 2020

Information Rights & Compliance Team
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Our Ref: FOI/03481

Thank you for your request concerning Mediation In Whistleblowing Disputes in relation to the last 3 full financial years and we apologise for the prolonged delay in responding to your request.

Your request has been considered and processed in accordance with the requirements of the Freedom of Information (FOI) Act 2000.

1. How many clinical incidents were recorded in the Local Risk Management Reporting System (LRMS) during the Period?

1 st April 2017 – 31 st March 2018	5276
1 st April 2018 – 31 st March 2019	5200
1 st April 2019 – 31 st March 2020	5194

CAVEAT: The above represents all patient related incidents reported to the National Reporting and Learning System. The description for a patient safety incident is any unintended or unexpected incident which could have or did lead to harm for one or more patients receiving NHS care.

2. How many of these were recorded as being incidents of a life-threatening or otherwise serious nature?

The Trust has reported the following serious incidents in the last 3 financial years. Serious incidents are defined as the following:

'Serious Incidents in health care are adverse events, where the consequences to patients, families and carers, staff or organisations are so significant or the potential for learning is so great, that a heightened level of response is justified' (Serious Incident Framework 2015).

The figures below excludes reported serious incidents that were latterly downgraded following additional information received about the circumstances leading up to the incident occurring.

The figures below are based on the StEIS reported date.

1 st April 2017 – 31 st March 2018	80
1 st April 2018 – 31 st March 2019	130
1 st April 2019 – 31 st March 2020	110

3. **During the Period, how many cases have occurred (whether or not also recorded in the LRMS) whereby an employee or other worker (all of whom for the purpose of this FOI request I shall call Workers) has raised a concern whether about patient safety, clinical or non-clinical malpractice or any other matter? Note: for the purpose of clarity, I refer here to cases which would usually be considered to be “whistleblowing” cases (this may be the case regardless of whether the concern was raised internally, with a line manager or other person within the Trust, or externally, with another organisation such as another NHS body or a regulator such as the CQC). I will refer to these cases in the questions below as Whistleblowing Cases and to the Workers who raise the concern as Whistleblowing Workers. I have tried to explain in some detail in order to be as clear as possible about my enquiry and to assist you in responding accurately.**

The Trust records all its ‘Speaking Up’ concerns (also referred to as “whistleblowing” cases) on Datix, the Trusts incident management system which is a secure system with specific restricted access for all speaking up cases..

The number of reported ‘Speaking Up’ concerns is listed below, these are concerns which are raised internally by staff:

1 st April 2017 – 31 st March 2018	23
1 st April 2018 – 31 st March 2019	19
1 st April 2019 – 31 st March 2020	35

The Trust will also receive concerns from the Care Quality Commission often when concerns have been raised by a service user or family member/carer directly to the Care Quality Commission (rather than a member of staff):

1 st April 2017 – 31 st March 2018	14
1 st April 2018 – 31 st March 2019	9
1 st April 2019 – 31 st March 2020	31

4. **Of the Whistleblowing Workers who raised concerns during the Period, how many are still working for the Trust and how many are no longer working for the Trust?**

The Trust has cross referenced whether a staff member is still working for the Trust based on them having an active Trust email account.

The Trust has not been asked for the circumstances around staff that have subsequently left the Trust, so there is no correlation between staff speaking up and subsequently leaving provided in this response.

1st April 2017 – 31st March 2018, 23 Speak Up concerns were received, of these 20 were reported anonymously, 3 were reported by named individuals:

- 1 staff member no longer works for the Trust
- 1 staff member continues to work for the Trust
- 1 concern was raised by a Trust employee on behalf of a 3rd party contractor (Interserve), the staff member who raised the concerns continues to work for the Trust.

1st April 2018 – 31st March 2019, 19 Speak Up concerns were received, of these 4 were reported anonymously, 1 was raised by a team, 14 were reported by named individuals:

- 5 staff members no longer work for the Trust
- 6 staff members continue to work for the Trust

- 3 of the named staff members reported their concerns directly to the Freedom to Speak Up Guardian but their names have not been recorded

1st April 2019 – 31st March 2020, 35 Speak Up concerns were received, of these 4 were reported anonymously, 31 were reported by named individuals:

- 5 staff members no longer work for the Trust
- 25 staff members continue to work for the Trust
- 1 staff member was bank/agency

5. Of the Whistleblowing Cases which arose during the Period:

5.1 how many were resolved satisfactorily (by which I mean any clinical, malpractice or other issues were addressed and any dispute with the Whistleblowing Worker was amicably resolved)?

All of the cases which arose during the periods were investigated and where issues were identified these were addressed and actioned appropriately.

5.2 in how many cases were Employment Tribunal (ET) proceedings or other legal proceedings started?

The link between speaking up concerns and employment tribunals is not recorded¹.

5.3 how many were resolved by ACAS intervention before the ET or other hearing?

The link between speaking up concerns and ACAS intervention is not recorded¹.

5.4 how many were the subject of other attempts at mediation or other form of alternative dispute resolution (eg clinical early evaluation), whether by internal NHS Staff who mediated or by an external mediation provider such as CEDR (the Centre for Effective Dispute Resolution)? I refer to these below as ADR Cases;

The link between speaking up concerns and mediation is not recorded¹.

5.5 how many went to a full ET hearing?

The link between speaking up concerns and full ET hearings is not recorded¹.

6. In relation to the ADR Cases:

6.1 how many were the subject of a mediation at any stage?

Not recorded¹.

6.2 how many were the subject of another form of alternative dispute resolution (eg arbitration) at any stage

Not recorded¹.

6.3 how many were resolved by means of the mediation or other form of alternative dispute resolution?

¹ Section 1(1) Any person making a request for information to a public authority is entitled (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and (b) if that is the case, to have that information communicated to him.

Not recorded¹.

- 6.4 does the Trust use internal NHS mediators and are they formally qualified as mediators? If so, how many ADR Cases did they settle during the Period?**

Not applicable.

- 6.5 does the Trust engage external mediation providers such as CEDR (see above)? If so, how many ADR Cases did they settle during the Period**

Not applicable.

- 7. Does the Trust have a main board director with explicit responsibility for monitoring and reviewing Whistleblowing Cases and if so:**

- 7.1 what is his/her name?**

The Trust has two board members with explicit responsibility for Speaking Up

Diane Herbert, Non-Executive Director

Dr Jane Padmore, Executive Director of Quality and Safety (Chief Nurse)

- 7.2 is he/she an executive or non-executive director?**

Diane Herbert, Non-Executive Director

<https://www.hpft.nhs.uk/about-us/our-board-of-directors/diane-herbert/>

Dr Jane Padmore, Executive Director

<https://www.hpft.nhs.uk/about-us/our-board-of-directors/dr-jane-padmore/>

- 7.3 how many Whistleblowing Cases were referred to the director during the Period?**

All Speaking Up Concerns are directly referred to the Trusts Freedom to Speak Up Guardian, the Guardian then reports to the Trust Board bi annually.

- 7.4 does the director issue a report (eg annually) as to his/her findings? If so, please provide a copy of any such report issued during the Period;**

The Integrated Governance Committee (IGC) which is a sub-committee of the Trust Board receives six monthly speaking up reports.

- 7.5 is any report issued by the director made public or shared with any third parties and if so, who?**

Either the speaking up 6 monthly report or a summary via IGC is presented at the Trust Board public/private meeting.

<https://www.hpft.nhs.uk/media/4703/agenda-item-15-annual-freedom-to-speak-up-19-20-report.pdf>

- 8. Does the Trust have a whistleblowing policy?**

Yes, the Speak Up Policy.

9. **How many concerns were raised under the policy in each of the last 3 full financial years?**

This question was answer in section 3.

10. **Please provide the name and full contact details for the Local Freedom to Speak Up Guardian (the Local Guardian) for the Trust.**

Yusuf Aumeerally is the Trusts Freedom to Speak Up Guardian. He can be contacted on yusuf.aumeerally@nhs.net.

11. **Is the Local Guardian a main board director of the Trust?**

No.

12. **How much did the Trust spend during the Period on legal and other professional fees for advice in connection with Whistleblowing Cases;**

Not recorded.

13. **How much did the Trust spend during the Period in making compromise or settlement payments to Whistleblowing Workers to settle their cases?**

Not recorded.

14. **Did the Trust enter into any Confidentiality Clauses or Non-Disclosure Agreements with Whistleblowing Workers during the Period and if so how many?**

Not recorded.

Should you require further clarification, please do not hesitate to contact me.

Please find enclosed an information sheet regarding copyright protection and the Trust's complaints procedure in the event that you are not satisfied with the response.

Yours sincerely

Sue Smith

**Sue Smith
Information Rights Officer**

Enc: Copyright Protection and Complaints Procedure Information Leaflet.

If you would like to complete a short survey in relation to your Freedom of Information request please scan the QR code below or click [here](#).

