

15 March 2023

Information Rights & Compliance Team
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Our Ref: FOI/04579

Thank you for your request concerning Medical Negligence Claims.

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

I am asking for the number of medical negligence claims made against the individual NHS hospitals within your Trust in the last full year.

Please see attached spreadsheet as requested.

Please Note: we have only provided data for those units where there were clinical negligence claims and/or serious incidents in 2022.

Due to the small numbers of admissions to identified units in one specific year we have applied Exemption Section 40(2). This is because entries of 5 or less are considered sufficiently small enough to be potentially identifiable data. On this information is exempt from the duty to publish¹.

Also, upon analysing the data and due to the low number of claimants we have applied Section 40(2) to providing their gender. By releasing the claimants gender and which unit they were admitted to could identify that individual and constitute a breach of the Data Protection Act (2018).

S40(2) is subject to a test of prejudice. Please see below for our considered reasons for and against disclosure:

Reason in favour of disclosure

We recognise there may be legitimate public interest in the openness and transparency around medical negligence claims against individual NHS hospitals.

We acknowledge that public trust in the Health and Care service is undermined by the suggestion that there may be 'something to hide'. At the same time, the risk of public identification may also deter service users from raising the alarm.

¹ Section 40(2) - Personal Data has been applied. This is because by releasing this information could identify individual(s) and constitute a breach of the Data Protection Act (2018).

Reason against disclosure

We believe on balance that the disclosure of the number of service users admitted along with the gender of the claimant would contravene the UK GDPR key principles in particular Article 5(1) which requires that personal data shall be processed lawfully, fairly and in a transparent manner in relation to individuals.

The rights of individuals, and their reasonable expectation that we will not disclose their personal data into the public domain, also outweighs the public interest in disclosure in this instance.

In addition, we feel that there is a significant risk that complainants may also be identifiable through the mosaic effect; this would be a breach of FOIA Section 41 (Information provided with a reasonable expectation of confidence).

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](#).

