

Reference Number: FOI/2019/427
From: Other
Date: 24 October 2019
Subject: Mediation in whistleblowing disputes

Please reply to the following questions in relation to the last 3 full financial years for the Trust (I refer to this as being “the Period” in the text of the questions).

Q1 How many clinical incidents were recorded in the Local Risk Management Reporting System (LRMS) during the Period?

A1 4,922 clinical incidents for the period 01/04/2016 – 31/03/2019

Q2 How many of these were recorded as being incidents of a life-threatening or otherwise serious nature?

A2 Nine

Q3 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.

A3 As a Trust we do not record ‘whistleblowing’ what we do record are Freedom To Speak Up (FTSU) cases. In line with national guidance our whistleblowing policy, became the Raising Concerns policy and then the Freedom to Speak Up Policy.

Often things that are raised under FTSU would not be classically considered ‘whistleblowing’ however in the spirit of FTSU we record them and escalate as per our policy.

Therefore the figures and answers we are responding with are through FTSU

16/17 - 16
17/18 - 14
18/19 - 22

Q4 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?

A4 Information not held – FTSU works on a confidential basis and we do not routinely hold this information as part of our central management information.

Q5 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)?

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

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

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;

5.5 how many went to a full ET hearing?

A5 5.1 16/17 - 16
17/18 - 14
18/19 – 21

5.2 1

5.3 0

5.4 51

5.5 0

Q6 In relation to the ADR Cases:

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

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

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

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?

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?

A6 6.1 All cases are subject to various mediation approaches; the most appropriate

mechanism being selected on an individual case.

6.2 1

6.3 1

6.4 Yes.
1 trained mediator
0 – no cases handled by internal mediator under FTSU

6.5 1

Q7 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?

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

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

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;

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

A7 All FTSU cases are reviewed with the Executive Lead for FTSU

7.1 Lucy Lavan – Director of Corporate Affairs

7.2 Executive Director. The Non-Executive Director involved with FTSU is Mark Jones

7.3 The Executive Director is aware of all FTSU cases

7.4 The FTSU Guardian reports to the Board of Directors quarterly

7.5 The quarterly reports are reported as part of the public Board of Directors meeting

Q8 Does the Trust have a whistleblowing policy? How many concerns were raised under the policy in each of the last 3 full financial years?

A8 Yes, the Trust has a Freedom to Speak Up Policy as referred to in question 3.

Q9 Please provide the name and full contact details for the Local Freedom to Speak Up Guardian (the Local Guardian) for the Trust. Is the Local Guardian a main board director of the Trust?

A9 Helen Turner – Freedom to Speak Up Guardian, reporting to FTSU Executive Lead

Q10 How much did the Trust spend during the Period on legal and other professional fees for advice in connection with Whistleblowing Cases

A10 Information not held – the Trust does not routinely collate or hold this information centrally as part of its spending reports. This information is not recorded separately so it is not possible to distinguish how much of the Trust's legal fee costs were associated with whistleblowing cases.

Q11 How much did the Trust spend during the Period in making compromise or settlement payments to Whistleblowing Workers to settle their cases?

A11 Nil

Q12 Did the Trust enter into any Confidentiality Clauses or Non-Disclosure Agreements with Whistleblowing Workers during the Period and if so how many?

A12 No