

**Request Reference:** FOI/004/22

**Published:** 16 June 2022

**Information requested:**

I'm requesting to see all communications, information and documentation, evidence provided and considered (and all information that the Organisation holds), related to a recently completed whistleblowing investigation, following a complaint made against myself [REDACTED] by a former employee [REDACTED].

**Response:**

The information requested is exempt from disclosure as follows;

Recommendations / Learning Points will be published in our Whistleblowing Annual Report. Publication will be towards the end of June 2022 and therefore this information is exempt from disclosure under FOISA section 27(1) as it is intended for future publication within twelve weeks of the request for information.

All other information is withheld under FOISA section 30(b)(ii) as disclosure of the information would, or would likely inhibit the free and frank provision of views for the purposes of deliberation.

All other information is withheld under FOISA section 30(c) as disclosure of the information would otherwise prejudice substantially, or likely to prejudice substantially the effective conduct of public affairs.

All other information is withheld under FOISA section 36(2) as the information is confidential and disclosure would constitute a breach of confidence.

Information relating to the applicant of this request is exempt from disclosure under FOISA section 38(1)(a) as it constitutes personal data of which the applicant is the data subject.

Information relating to others is exempt from publication under FOISA section 38(1)(b) as it constitutes personal data and disclosure would be in contravention of the UK GDPR Data Protection Principles.

**Advice and Guidance**

The information requested is a case file raised under the Whistleblowing arrangements for The State Hospital which follows The National Whistleblowing Standards (NWS).

(<https://inwo.spsso.org.uk/download>).

Relevant section of NWS;

Part 1 of the NWS;

Section 3.2 set out that relevant facts should be gathered and confirmed in an objective, confidential and sensitive way.

Section 5.4 states that as far as the law allows, there should be respect for their confidentiality of any person who raises a concern (unless they agree not to)

Part 2 of NWS;

Section 58 defines confidentiality as the requirement not to disclose information about the person raising the concern and anyone else involved in the process, such as witnesses.

Sections 60 - 64 set out that confidentiality must be maintained as far as possible and that those involved should know in advance who will see the information.

Part 5 of NWS, sections 3 -10 set out the governance requirements which include an emphasis on confidentiality and data protection.

Taking actions that would likely reduce the effectiveness of a confidential whistleblowing

system would likely prejudice the effective conduct of public affairs.

In relation to the use of FOISA section 30(b)(ii); If The State Hospital were to publish information that was provided as part of a whistleblowing investigation it is likely that those involved, such as the investigator(s) would not provide as free and frank views about investigations as they will be mindful that their views may be published. This would significantly affect the ability to investigate concerns that are reported to the organisation.

In relation to the use of FOISA section 30(c); If The State Hospital were to publish information that was provided as part of a whistleblowing investigation it is likely to have a significant impact on other individuals coming forward with concerns and with the willingness of witnesses to provide statements, as their statements may be made public. This would significantly affect the ability to investigate concerns that are reported to the organisation.

In relation to the use of FOISA section 36(2); The NWS is clear that information relating to whistleblowing is confidential. Therefore, all parties have the explicitly stated expectation of confidentiality given in Part 1 sections 3.2 & 5.4 and Part 2 sections 58 & 60-64.

In relation to the use of FOISA section 38(1)(a); The provision of your own personal data is a right under the UK GDPR and we will provide this information to you in due course under this legislation.

In relation to the use of FOISA section 38(1)(b); As indicated above, all parties had an expectation of confidentiality and therefore this exemption is engaged.

Recommendations / Learning Points will be published in our Whistleblowing Annual Report. Publication will be towards the end of June 2022, we will provide a link to the report once it is available.