

Sent via email

[REDACTED]

Information Governance

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Exmoor Street
London
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Our ref: FOI/2016/061

16 May 2016

www.clch.nhs.uk
foi.request@clch.nhs.uk

Dear [REDACTED]

Freedom of Information Act 2000 request: Central London Community Healthcare NHS Trust's use of compromise agreements (settlement agreements)

With reference to your request for information, dated 29 April 2016 made under section 1(1) of the Freedom of Information Act, I am writing to inform you of the outcome of your information request.

You asked the following:

Please advise in relation to the 5 years between January 2011 and December 2015 inclusive:

- 1) How many compromise agreements has the Trust entered into with staff or former staff? Please include all COT3 agreements in this figure.*
- 2) How many of these compromise agreements require staff members not to disclose the existence of the compromise agreement itself?*
- 3) How many of these compromise agreements contain non-disparagement clauses that require staff members not to criticise the employees of the Trust?*
- 4) How many of these compromise agreements were entered into by the Trust with staff who had previously made public interest disclosures, (whether or not these were raised by formally invoking the Trust's whistleblowing policy)?*
- 5) If staff who have entered into a compromise agreement with the Trust were to voice concerns about reprisal by the Trust for whistleblowing, would the Trust consider this to be an actionable breach of non-disparagement clauses, or would it consider the raising of such concerns to be qualifying disclosures under PIDA?*

Our response:

- 1. Five*
- 2. Zero*
- 3. Four*
- 4. CLCH does not specifically record this information and would be unable to determine whether it holds this information, and provide it, within the statutory time limit of 18 hours. This is because a 'protected disclosure', which is defined in statute, may have been made at any time since 1998, and may well be unconnected to the reason for which the*

Trust entered into the compromise agreement. This request does not ask about whether the compromise agreement was entered into because a protected disclosure has been made. You have also specifically asked about disclosures that have not been made via CLCH's Raising concerns at work policy. A 'protected disclosure' may have been made in many forms, from an individual simply speaking to or emailing their manager, to a more formal communication with the Trust's Chief Executive. It is the nature of, and circumstances in which, the information has been provided that determines whether it is a 'protected disclosure'. In order to seek to quantify whether the individuals have previously made a protected disclosure, we would need to:

- a) Collate a list of all individuals in respect of whom the Trust has entered into compromise agreement;*
- b) Establish all the possible ways in which a protected disclosure could have been made – in particular, this could include disclosures made using the Trust's incident reporting systems, or by email between employees and managers, or evidenced in HR documentation;*
- c) Work through all of those systems, emails, logs, records and processes, to determine whether a communication that constitutes a protected disclosure has been made.*

- 5. This is not a request for recorded information, and so is outside the scope of the Freedom of Information Act 2000.*

This completes our response to your request for information. If you are unhappy with our response, please write to us giving your reasons and we will address them. If you remain dissatisfied you are entitled to appeal to the Information Commissioner:

Customer Contact
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow SK9 5AF
Tel: 0303 123 1113
http://ico.org.uk/concerns/getting/report_concern_foi

Yours sincerely,

Jonathan Walmsley
Information Governance Facilitator
Central London Community Healthcare NHS Trust