

Freedom of Information Act 2000 disclosure log entry

Reference

23-24267

Date response sent

Subject

Whistleblowing Employment Tribunals 2018-22

Details of enquiry

1. How many individual cases regarding disclosures made under the Public Interest Disclosure Act 1998 and/or whistleblowers have you fought at employment tribunals since 2015?
 - a. Please include a year by year breakdown.
2. How much has been spent on external lawyers and legal advice for Employment Tribunal Litigation pertaining to public interest disclosures in the past five years?
 - a. Please include a year by year breakdown.
3. Please can you include the name(s) of the law firm(s) and barristers involved and itemise how much was spent on each?
4. How many ongoing cases are there pertaining to the above and in which year did they start?
5. What is the longest ongoing case relating to any of the above and what has been the cost of this to date?
6. How many 'guardians' has the trust employed each year since 2015 to date? Please provide a breakdown for each.

Response sent

1. How many individual cases regarding disclosures made under the Public Interest Disclosure Act 1998 and/or whistleblowers have you fought at employment tribunals since 2015?
 - a. Please include a year by year breakdown.

Employment Tribunals (Whistleblowers and/or under PIDA 1998)	
Year	Number of Cases
2015	0
2016	0
2017	0
2018	0
2019	1
2020	0
2021	0
2022	0
2023	1

2. How much has been spent on external lawyers and legal advice for Employment Tribunal Litigation pertaining to public interest disclosures in the past five years?
 - a. Please include a year by year breakdown.

Please note the following four points, which are relevant to the spend indicated in the following table:

- i. The annual spend does not correlate to the number of ETs (Employment Tribunals) in that year, because judgements made can experience significant delays at either the ET or EAT stages
- ii. Work to defend ET cases would normally start soon after notification from ACAS, which would be the time when spend accrual would typically start and does not necessarily fall into same year as the ET itself
- iii. Financial accounting procedures mean that reporting of spend can sometimes fall into the next year, depending on when invoices are paid and finance department cut-off dates
- iv. Spend beyond the date of the ET can sometimes continue to accrue because judgements may be delayed and further legal advice may be sought prior to conclusion.

Spend on External Lawyers and Legal Advice for Ets (Whistleblowing/PIDA)	
Year	Spend
2018	Nil
2019	£342.20
2020	£26,112.80
2021	£105,609.16
2022	£2,800.50
2023	£6,101.30

3. Please can you include the name(s) of the law firm(s) and barristers involved and itemise how much was spent on each?

This information is exempt under Section 40(2) of the Freedom of Information Act (FOIA), Personal information.

However, we can confirm the Chambers used:

For the 2019 case,

- Outer Temple Chambers for an early preliminary hearing
- Cloisters for the hearing.

For the 2023 case,

- Devereux Chambers.

4. How many ongoing cases are there pertaining to the above and in which year did they start?

≤ - this data involves low numbers, i.e. less than or equal to 5. and has been suppressed. Were we to disclose the exact number requested it could potentially lead to identification or re-identification of the individual(s) concerned as this relates to ongoing activity. Although the quantification of current caseload alone is not personal data, we have also to consider whether other information that is already available, or may become available within the public domain, could be combined

with the data requested to enable identification of the individual(s) concerned. We are, therefore, withholding this information under S.40(2) Personal Information.

5. What is the longest ongoing case relating to any of the above and what has been the cost of this to date

This data is withheld under Section 40(2) of FOIA, Personal information.

7. How many 'guardians' has the trust employed each year since 2015 to date? Please provide a breakdown for each.

Since 2015, we have had 3 Freedom to Speak Up guardians

- a. from November 2015 to December 2019,
- b. from January 2020 to November 2020
- c. from December 2020 to date

Freedom of Information Act 2000 (FOIA) Section 40(2) - Personal information

This exemption covers personal information about third parties and where complying with the request would contravene the UK General Protection Regulation or the Data Protection Act 2018. Section 40 is an absolute exemption that does not require the authority to carry out the public interest test.

The Trust recognises that employees/ex-employees have a rightful expectation that details of their employment are treated confidentially by their employer.

We hope that you are satisfied with this response. If you are dissatisfied you can ask us to carry out an internal review of our handling of your request. You can request a review by emailing us at FOI@tavi-port.nhs.uk. Your review will be carried out by a senior officer within the Trust who has not been involved in this response. If you remain dissatisfied following completion of our internal review, you have a right to complain to the Information Commissioner's Office (ICO) at <https://ico.org.uk/make-a-complaint/official-information-concerns-report/official-information-concern/> or visit <https://ico.org.uk/global/privacy-notice/how-you-can-contact-us/>