



East London
NHS Foundation Trust

Information Governance

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23 December 2020

Our reference: FOI DA3578a

I am responding to your request for information received 25 November 2020. I am sorry for the delay in responding to your request. This has been treated as a request under the Freedom of Information Act 2000.

I am now enclosing a response which is attached to the end of this letter. Please do not hesitate to contact me on the contact details above if you have any further queries.

Yours sincerely,

Keshia Harvey
Information Governance Manager

If you are dissatisfied with the Trust's response to your FOIA request then you should contact us and we will arrange for an internal review of this decision. If you remain dissatisfied with the decision following our response to your complaint, you may write to the Information Commissioner for a decision under Section 50 of the Freedom of Information Act 2000. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliff House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 0303 123 1113
Web: www.ico.org.uk

Please note that the data supplied is not allowed to be re-used and/or published without the explicit consent of East London NHS Foundation Trust. Please contact the signatory to request permission if this is your intention

Chair: Mark Lam

Interim Chief Executive: Paul Calaminus

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Request

Dear Sir / Madam

Freedom of Information Act Request on behalf of the family of XXXXX,
deceased Your Reference FOI DA3578

We write further to your response dated 23 November 2020 to our request under the Freedom of Information Act 2000.

Our request of 8 October 2020 was for the Serious Incident Reports into the deaths on Ash Ward of XXXXX and two other individuals in the period between December 2016 and July 2017. The purpose of obtaining these reports is to identify common themes in the care of individuals on Ash Ward to be explored at the inquest into XXXXX death. We consider that with appropriate redactions in place to protect the confidentiality of the individuals concerned and any family members, this request is capable of being met.

The names of any staff mentioned in the requested reports should not be redacted. This is in alignment with the guidance of the Information Commissioner's Office (ICO) on redacting names in documents relating to public sector employees:

"A junior employee whose name appears on an email simply because they are organising a meeting or distributing a document in an administrative capacity has a reasonable expectation that you do not disclose their name.

It is also necessary for you to consider what constitutes the legitimate interest in disclosure. If a request concerns the reasons for a particular decision or the development of a policy, there may be a legitimate interest in full transparency, including the names of those officials who contributed to the decision or the policy.

*The decision as to whether it is reasonable for you to release the names therefore depends on a number of factors and you must base it on the circumstances of the request."*¹

We look forward to receiving the reports as requested.

Answer: Section 40 of Freedom of Information Act provides an exemption if the information requested is personal data protected by the Data Protection Act. In addition to the data about the deceased individuals, the Serious Incident Reports contain data relating to living individuals who we believe have a right to confidentiality.

Please find attached three redacted Serious Incident reports in relation to deaths on Ash Ward between December 2016 and July 2017.

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Original Request:

Hodge Jones & Allen act for the family of XXXXX in the inquest into his death on Ash Ward on 1 July 2017. We note from the Care Quality Commission's inspection report of February 2018 that in addition to XXXXX's death, three other unexpected deaths occurred on Ash Ward around this time, between December 2016 and July 2017, one of which was that of XXXXX, who drowned on the ward on 27 December 2016. We wish to be provided with copies of the Serious Incident Reports into the deaths of XXXXX and the two other individuals for the purposes of identifying common themes to be explored at the inquest into XXXXX's death.

Answer: We have processed your request under the Freedom of Information Act 2000. Section 40 of Freedom of Information Act provides an exemption if the information requested is personal data protected by the Data Protection Act. In addition to data about the deceased individuals, the Serious Incident Reports contain data relating to living individuals who we believe have a right to confidentiality. Please note additionally that whilst the Data Protection Act 2018 itself applies only to living individuals we believe the duty of confidentiality continues after an individual's death. We therefore believe that disclosure of these Reports in their entirety would compromise the right to confidentiality of both living and deceased individuals.

We would, however, be able to provide information relating to the service contained within the Serious Incident Reports. Please do let us know if you would like to receive these.