

Information Governance

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Website: <https://www.elft.nhs.uk>

5 January 2022

Our reference: FOI DA4000a

I am responding to your request for information received 14 December 2021. This has been treated as a request under the Freedom of Information Act 2000.

When an organisation receives a request for information under the Freedom of Information Act, it is allowed under the Act to apply a blanket exemption to this where it has concluded that providing a response would take in excess of eighteen hours. When the cost of compliance and extracting information would exceed eighteen hours, a cost limit of £450 can be applied. This is explained in Section 12 of the Freedom of Information Act 2000 and is based on a rate of £25 per hour, regardless of the rate of pay of any individual involved in the retrieval of requested information, and equates to eighteen hours work.

Having reviewed your request, the Trust has noted that it would not be able to provide all the information requested within the eighteen hours specified in the Freedom of Information Act 2000.

In order to assist you with your request, I have advised below the timing each question would take in order to assist you to refine your request. If you wish to refine your request to comply with the 18 hour time limit, please do get in touch.

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:

Chair: Mark Lam

Chief Executive: Paul Calaminus

We care

We respect

We are inclusive

Information Commissioner's Office
Wycliffe 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

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Request:

Thank you for your response (attached) letter dated 14 Dec 21 in which you invited me to contact you if I had any further queries.

In your response it is clear that my question went too wide to secure a definitive response so may I narrow it to get back to the opening sentence of my request please as follows:

- **I would like to know if there was in 2017 any reference in ELFT Policies or Procedures to the specific Term "Bank Staff/Contractor". If you cannot find any I would appreciate confirmation of this.**

I hope that this will allow you to focus more narrowly and advise me if any reference is found. I believe that there may well be no such reference.

Answer: Section 12(1) of the Freedom of Information Act 2000 states:

Section 12(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit

The Trust has reviewed your request for information and in order to collate this information, staff would have to review current and archive policies to establish which policies were in place in 2017, identify the version in place and search for the terms "bank staff" and "contractors". It is estimated that this was take three days to complete.

Therefore, the Trust is unable to comply with this particular part of your request as the cost of compliance and extracting your exact requirements would exceed the appropriate cost limit of £450 which is specified in Section 12 of the Freedom of Information Act 2000. This is based on a rate of £25 per hour, regardless of the rate of pay of any individual involved in the retrieval of requested information, and equates to 18 hours work.

Original Request:

I would like to know if there is any reference in ELFT Policies, Procedures or any other media to the Term "Bank Staff/Contractor" or other similar term for the engagement / employment of staff / contractors working at ELFT.

I am advised by ELFT that such a term may have been used in 2017 as an employment status for staff who were previously self-employed contractors and whose terms of service were affected by IR35.

If there is no reference to such a term, I would be grateful if you would please confirm this - if there is/are reference(s), can you please let me know how I can access the necessary documents.

Answer: By way of advice and assistance, in accordance with Section 16 FOIA, we can confirm that the Trust publishes its current HR policies online, accessible via <https://www.elft.nhs.uk/About-Us/Freedom-of-Information/Trust-Policies-and-Procedures/Human-Resources-Policies>.

There is reference to different types of staffing in a number of HR policies using a range of terms (bank/agency/ contractor), and therefore reflecting some of the terms you have referred to in your request. It is not clear what other similar terms you would like us to search for. Furthermore, reviewing all Trust Policies and Procedures and "any other media" in the period around 2017 to date for the terms quoted in the request (and to look for variations or other reasonably 'similar terms'), is likely to take considerably longer than the 18 hours prescribed limit under the FOIA (Section 12).

The Trust has currently, as you will see, approximately 100 policies (and there may also have been some historical versions which may no longer be readily accessible) and necessarily, some policies may apply only to certain groups, and therefore the only way to complete the request in the way you have asked for would be to manually review all possible relevant documents (and to try and access any historical versions if available at all) to try to find terms that are, or which may be synonymous with, the wording you have asked about.

For completeness and so as to discharge our obligations under Section 21 FOIA, published policies, and the information within them, are technically covered by the exemption in Section 21 of the FOI Act, which states that (1) Information which is reasonably accessible to the applicant otherwise than under [a request made under FOIA] 1 is exempt information.