

Dear

## **FREEDOM OF INFORMATION – DISCIPLINARY ACTION AGAINST STAFF**

I write in response to your request for information in relation to disciplinary action against staff in NHS Lothian.

### Question:

1. Between January 2018 and present date, for each time a staff member was given a first and final warning for any of the reasons of performance, inappropriate patient care, breach of confidentiality, error relating to patient care, malice relating to patient care, or verbal abuse of a patient or colleague, please provide copies of the individual records/documentation relating to the incident(s).

### Answer:

I am advised that this information is not held centrally. Warnings given to staff are not recorded by reason. Information will be held in individual staff records, but in order to provide the information you request it would be necessary to review each record over the period you have specified, requiring significant resources. Under section 12 of the Freedom of Information (Scotland) Act 2002, NHS Lothian is not required to respond to your request if the resources required to do so equate to more than £600 in cost.

In addition, we are not able to release records or documentation in relation to individual staff as this information could lead to the identification of the individuals involved. Since we do not have their consent to release their personal data, the information is exempt under section 38 of the Freedom of Information (Scotland) Act 2002 as to provide it would breach the principles of the Data Protection Act 2018.

### Question:

2. Between January 2018 and present date, for each time a staff member was dismissed for any of the reasons of performance, inappropriate patient care, breach of confidentiality, error relating to patient care, malice relating to patient care, or verbal abuse of a patient or colleague, please provide copies of the individual records/documentation relating to the incident(s).

### Answer:

Since January 2018, the reasons for staff dismissals have included confidentiality breaches, Health and Safety breaches, fraud, harassment and abuse of colleagues, and theft. I am not able to provide further information or to release records or documentation in relation to individual cases as this information could lead to the identification of the individuals involved. Since we do not have their consent to release their personal data, the information is exempt under section 38 of the Freedom of Information (Scotland) Act 2002 as to provide it would breach the principles of the Data Protection Act 2018.

Question:

3. If copies of the records cannot be provided in any given case for points 1 and 2, even with redactions, then please provide a detailed description of the offending conduct of the staff member involved.

Answer:

Please see available information provided above.

I hope the information provided helps with your request.

If you are unhappy with our response to your request, you do have the right to request us to review it. Your request should be made within 40 working days of receipt of this letter, and we will reply within 20 working days of receipt. If our decision is unchanged following a review and you remain dissatisfied with this, you then have the right to make a formal complaint to the Scottish Information Commissioner within 6 months of receipt of our review response. You can do this by using the Scottish Information Commissioner's Office online appeals service at [www.itspublicknowledge.info/appeal](http://www.itspublicknowledge.info/appeal). If you remain dissatisfied with the Commissioner's response you then have the option to appeal to the Court of Session on a point of law.

If you require a review of our decision to be carried out, please write to the reviewer at the address at the top of this letter. The review will be undertaken by a Reviewer who was not involved in the original decision-making process.

FOI responses (subject to redaction of personal information) may appear on NHS Lothian's Freedom of Information website at: <https://org.nhsllothian.scot/FOI>

Yours sincerely

**ALISON MACDONALD**  
**Executive Director of Nursing Midwifery and AHPs**  
Cc: Chief Executive