

Date 16/06/2025
Your Ref
Our Ref 10124

Enquiries to Richard Mutch
Extension 35687
Direct Line 0131 465 5687
loth.freedomofinformation@nhs.scot
richard.mutch@nhs.scot

Dear

FREEDOM OF INFORMATION - RIGHT TO WORK IN THE UK

I write in response to your request for information in relation to the right to work in the UK.

Question:

- a. A copy of any policies that set out how the Trust/Board ensures that employees have a legal right to work in the UK, and how these policies are enforced.
- b. A copy of any records or audits, from within the last two years, that set out details as to how far these policies are complied with.
- c. The job title and grade of the person (or people) responsible for overseeing and enforcing this policy? (For the avoidance of doubt, I am not seeking any personal information other than job title and grade).

Answer:

1a.	NHS Lothian does not have a policy on the Right to Work in the UK, but we have extensive guidance on HR online for our managers and a copy of this guidance is attached. This is enforced through our pre-employment checks prior to an offer of employment being made.
1b.	There are no centrally held records or audits demonstrating how this guidance has been enforced. This would need to be retrieved from individual personal files which was be a resource intensive piece of work to demonstrate compliance. Under the Freedom of Information Act NHS Lothian is not required to create new records to enable it to respond to your enquiry. This information is not collated or held in aggregate form and it would be necessary to review all case files relating to staff over the period you have requested to assemble the information you seek. Even if NHS Lothian did this – and there would be significant cost implications in doing so – it would be unable to respond in full to your request. The information requested is therefore exempt under section 12.1 – Cost.

Headquarters
Mainpoint
102 West Port
Edinburgh EH3 9DN

Chair Professor John Connaghan CBE
Chief Executive Professor Caroline Hiscox
*Lothian NHS Board is the common
name of Lothian Health Board*

1c.	There is no one single person responsible for overseeing and enforcing the guidance – it is the responsibility for all hiring managers in conjunction with the Recruitment Team to ensure that the guidance is followed.
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Question:

- a. A copy of any policies that set out how the Trust/Board ensures that employees contracted through third parties have a legal right to work in the UK, and how these policies are enforced.
- b. A copy of any records or audits, from within the last two years, that set out details as to how far these policies are complied with.
- c. The job title and grade of the person (or people) responsible for overseeing and enforcing this policy. (For the avoidance of doubt, I am not seeking any personal information other than job title and grade).

Answer:

2a.	We do not have a policy, however all third parties are required to complete a checklist to verify the appropriate right to work checks have been completed by the agency. The checklist is then processed (returning to third party if any of the checks are incomplete)
2b.	As there is no policy, no audits are conducted in relation to a policy.
2c.	The General Manager in the Staff Bank is responsible for the service but as before there is no policy so not responsible for enforcing.

Question:

- a. Information that sets out, for each of the last three years, how many asylum seekers were hired on a temporary right to work visa by the Trust.
- b. Information that sets out, for each of the last three years, how many asylum seekers were registered volunteers at the Trust.
- c. A copy of any policy concerning how you ensure that asylum seekers who are registered volunteers are not replacing paid roles.

Answer:

3a.	This information is not held centrally. Right to Work is part of the pre-employment checks and is held within personal files. Under the Freedom of Information Act NHS Lothian is not required to create new records to enable it to respond to your enquiry. This information is not collated or held in aggregate form and it would be necessary to review all case files relating to staff over the period you have requested to assemble
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	the information you seek. Even if NHS Lothian did this – and there would be significant cost implications in doing so – it would be unable to respond in full to your request. The information requested is therefore exempt under section 12.1 – Cost.
3b.	There are no centrally held records or audits which would indicate number of volunteers with asylum seeker status. This would need to be retrieved from individual volunteer files which was be a resource intensive piece of work. The information requested is therefore exempt under section 12.1 – Cost.
3c.	In terms of volunteers replacing paid roles, this would not just apply to asylum seekers. We have a process in place where any new volunteering role is assessed to determine if it truly is a volunteer role or whether it would be seen as part of paid employment. Only those that are truly classed as suitable for a volunteer are then taken forward.

Question:

4. Information that sets out, for each of the last three years, how many checks have been conducted due to expiration of a Positive Verification Notice of a Temporary work visa.

Answer:

As explained in 1b and 3a above, Right to Work information is not held centrally and would be resource intensive to interrogate all personal file to determine if a check has been conducted due to expiration of a Positive Verification Notice of a Temporary work visa. The information requested is therefore exempt under section 12.1 – Cost.

Question:

5. Information that sets out, for each of the last three years, how many employees had an employment contract terminated due to a change in their immigration status?

Answer:

If an individual's employment has been terminated due to a change in immigration status, this would be classed as a dismissal for "some other substantial reason". Our central records do not provide the details behind a dismissal for "some other substantial reason" so we are unable to pull out the numbers that may have been related to immigration status.

Question:

6. Information regarding any schemes or partnerships that your Trust has with charities or other external organisations that support or promote the employment of foreign nationals, asylum seekers or those who have recently successfully claimed asylum. I am seeking information on the name of the charity or organisation and any partnership agreement or document that sets out the nature of the relationship or scheme.

Answer:

NHS Lothian has no schemes or partnerships with any charities or other external organisations that support or promote the employment of foreign nationals, asylum seekers or those who have recently successfully claimed asylum.

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. 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 FOI Reviewer at the email address at the head 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/Pages/default.aspx>

Yours sincerely

ALISON MACDONALD
Executive Director, Nursing
Cc: Chief Executive