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Email

Dear

The Trust is in receipt of your Freedom of Information Act 2000 (FOIA) request, thank you. This request has been assigned the internal reference quoted above; please ensure that you quote this number in any future correspondence.

FOI Request

You asked us:

Under the Freedom of Information Act 2000, I would like to request the following information relating to the treatment of previous public sector employment as reckonable service for staff joining your organisation:

- 1. Reckonable Service Inclusion for Redundancy Purposes:**
Please provide any policies, guidelines, or internal documents used by your organisation to determine how previous service with other public sector employers (e.g., local government) is assessed for inclusion in redundancy calculations under the NHS Terms and Conditions of Service Handbook.
- 2. Breaks in Service:**
What is your organisation's policy or interpretation regarding allowable breaks in service between leaving a local government organisation and joining the NHS, for the purposes of maintaining reckonable service?
- 3. Verification Process:**
Please outline the process used by your HR department to verify previous public sector service as reckonable (e.g., required documentation, checks with former employers).
- 4. Applicable Timeframes:**
Over the last nineteen years, how many requests for recognition of prior



public sector service for redundancy purposes have been:

- a) Approved
- b) Denied
- c) Appealed

5. Legal or Policy References:

Please provide copies of any internal or external legal advice, policy references, or documents used to inform decisions about reckonable service related to redundancy entitlement.

Section 5. Reckonable service recognition of relevant non-NHS service in redundancy calculations, note: [NHS redundancy arrangements | NHS Employers](#) suggest that where employment is outside of the NHS but is relevant to NHS employment, it would be reasonable to include this in the NHS redundancy calculation.

5.1 How many Trust employees have been made redundant in the past 19-years?

5.2. Of those employees made redundant in the past 19-years, how many had relevant previous non-NHS employment?

5.3. Of those employees made redundant in the past 19-years, have any had non-NHS reckonable service included in their redundancy calculation? Yes or No

6. 5.4. If yes (to 5.3), how many employees have had this discretion applied during this period?

7. 5.5. If no (to 5.3), please specify the reason below?

- a. None of the redundant employees had relevant non-NHS employment
- b. Relevant non-NHS employment was NOT counted as reckonable service
- c. Relevant non-NHS employment was counted as reckonable service but not included in the redundancy calculation
- d. Other reason. Please specify:



Formal Response

The Trust confirms it holds part of the information you requested.

1. Reckonable Service Inclusion for Redundancy Purposes:

Please provide any policies, guidelines, or internal documents used by your organisation to determine how previous service with other public sector employers (e.g., local government) is assessed for inclusion in redundancy calculations under the NHS Terms and Conditions of Service Handbook.

As per Agenda for Change 12.2:

“Employers have discretion to take into account any period or periods of employment with employers outside the NHS, where these are judged to be relevant to NHS employment.”

Annex 28 - Relevant experience outside the NHS may include previous employment abroad or in the health services of another Member State of the European Union. It is important that this is included when employers consider "*service with employers outside the NHS*" when deciding whether to exercise the discretion to increase annual leave entitlement.

The exercise of discretion in paragraph 12.2 is a local matter. However, it is important that any decision is made in a fair, transparent and non-discriminatory way. An employer should be able to demonstrate that it has given due consideration to any equivalent service in another country and that such consideration was part of the process in deciding whether or not to award additional annual leave in each case, as set out under Section 12.2 of the NHS Terms and Conditions of Service Handbook.

Employers are required to exercise their discretion in accordance with the legal framework, as required by the Equality Act 2010; and by Article 45 of the Treaty on the Functioning of the European Union and Article 7, paragraph 1, of the Regulation (EU) No 492/2011 on freedom of movement for workers within the Union, which prohibit discrimination between EU workers as regards conditions of employment and work.

A number of judgements from the Court of Justice of the European Union (CJEU) have addressed the issue of recognition of experience and seniority gained in the public service of another Member State, for example: Commission v Italy [Case C-371/04, ECLI:EU:C:2006:668]; Kobler [Case C-224/01, ECLI:EU:C:2003:513].

The views of the Commission regarding recognition of professional experience and seniority are set out in the Commission Staff Working Document "Free movement of workers in the public sector", SEC(2010)1609, of 14 December 2010.



2. Breaks in Service:

What is your organisation's policy or interpretation regarding allowable breaks in service between leaving a local government organisation and joining the NHS, for the purposes of maintaining reckonable service?

A period or periods of employment with employers outside the NHS, where these are judged to be relevant to NHS employment and where there has been a break in service of 12 months or less, the period of employment prior to the break will count as reckonable service- and where employment that has been taken into account for the purposes of a previous redundancy, or loss of office payment by an NHS employer; where the employee has previously been given NHS pension benefits, any employment that has been taken into account for the purposes of those pension benefits.

3. Verification Process:

Please outline the process used by your HR department to verify previous public sector service as reckonable (e.g., required documentation, checks with former employers).

NHS Service History is verified using Inter Authority Transfer documentation available directly from ESR, if in the event that this information is not available. The Recruitment team will review NHS Pension Statements, References etc. to determine NHS Service History.

4. Applicable Timeframes:

Over the last nineteen years, how many requests for recognition of prior public sector service for redundancy purposes have been:

- a) Approved**
- b) Denied**
- c) Appealed**

This data is not collected.

5. Legal or Policy References:

Please provide copies of any internal or external legal advice, policy references, or documents used to inform decisions about reckonable service related to redundancy entitlement.

An employee is required to have two years (104 weeks) of continuous service in order to qualify for an NHS redundancy payment. This is service where there has not been a break of more than one week (measured Sunday to Saturday). Once the employee has earned the two years continuous service, they then qualify for an NHS redundancy payment. Any service over these two



years will then count towards reckonable service, as long as they have not had a break of more than 12 months.

Section 5. Reckonable service recognition of relevant non-NHS service in redundancy calculations, note: [NHS redundancy arrangements | NHS Employers](#) suggest that where employment is outside of the NHS but is relevant to NHS employment, it would be reasonable to include this in the NHS redundancy calculation.

5.1 How many Trust employees have been made redundant in the past 19-years? 253

5.2. Of those employees made redundant in the past 19-years, how many had relevant previous non-NHS employment?

We do not hold this information

5.3. Of those employees made redundant in the past 19-years, have any had non-NHS reckonable service included in their redundancy calculation? Yes or No

We do not hold this information

6. 5.4. If yes (to 5.3), how many employees have had this discretion applied during this period?

7. 5.5. If no (to 5.3), please specify the reason below?

- a. None of the redundant employees had relevant non-NHS employment**
- b. Relevant non-NHS employment was NOT counted as reckonable service**
- c. Relevant non-NHS employment was counted as reckonable service but not included in the redundancy calculation**
- d. Other reason. Please specify:**

Next steps

We hope you find the information provided to be of some assistance. Should you be dissatisfied with our response then in the first instance please contact Richard Banks, Head of Corporate Governance, via the following email address: FOI@secamb.nhs.uk

You can ask us to review our original response. If you would like us to carry out an internal review, please let us know within 40 working days of you receiving our original response. This review will be conducted by an individual who was not directly involved in reviewing the original response, ordinarily, the Trust Data Protection Officer.

We will endeavour to complete this request within 20 working days.

Should you remain dissatisfied then you can contact the [Information Commissioner's Office](https://www.ico.org.uk/foicomplaints) (ICO). Complaints to the ICO should be made within six weeks of receiving the outcome of an internal review. The easiest way to lodge a complaint is through their website: www.ico.org.uk/foicomplaints.

Alternatively, the ICO's postal address is:

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, SK9 5AF.

Yours sincerely,

**Freedom of Information Coordinator
South East Coast Ambulance Service NHS Foundation Trust**



Saving Lives,
Serving Our Communities

Chair: Michael Whitehouse CEO: Simon Weldon