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Lewes  
East Sussex  
BN7 2XW

[foi@secamb.nhs.uk](mailto:foi@secamb.nhs.uk)

7<sup>th</sup> July 2016

Email:

Dear

I am writing in response to your enquiry under the Freedom of Information Act 2000 (FOIA) reference FOI/16/06/16.

You requested the following information:

**South East Coast Ambulance Service NHS Foundation Trust's use of compromise agreements (settlement agreements)**

**Please advise in relation to the 5 years between January 2011 and December 2015 inclusive:**

**1) How many compromise agreements has the Trust entered into with staff or former staff? Please include all COT3 agreements in this figure.**

Unfortunately we only hold information on this subject from February 2015 onwards. Our records indicate that we have entered into 3 Settlement/COT 3 agreements within the time period specified.

**2) How many of these compromise agreements require staff members not to disclose the existence of the compromise agreement itself?**

All our settlement agreements/COT 3 agreements will contain either a clause about non-disclosure of the agreement itself or at the very least, the terms of the agreement.

Such a term is standard within all agreements but it comes with the caveat that there is nothing preventing either the employee or the employer from disclosing for legal, statutory, tax or governance/audit purposes.

**3) How many of these compromise agreements contain non-disparagement clauses that require staff members not to criticise the employees of the Trust?**

All of our settlement agreements contain a mutual non-disparagement clause which is there to draw a line under the employment relationship which is being terminated. We understand that this is

standard practice amongst nearly all NHS and other employers. We have such clauses as optional under COT 3 agreements.

**4) How many of these compromise agreements were entered into by the Trust with staff who had previously made public interest disclosures, (whether or not these were raised by formally invoking the Trust's whistleblowing policy)?**

None of the settlement agreements involved employees who had previously made public interest disclosures.

**5) If staff who have entered into a compromise agreement with the Trust were to voice concerns about reprisal by the Trust for whistleblowing, would the Trust consider this to be an actionable breach of non-disparagement clauses, or would it consider the raising of such concerns to be qualifying disclosures under PIDA?**

As standard practice in all settlement agreements/COT3 3 agreements, the following clause is used:

*DISCLOSURE OF INFORMATION*

*For the avoidance of doubt, nothing in this Agreement shall prevent you disclosing information:*

*pursuant to any order of any Court of competent jurisdiction; or*

*which has come into the public domain otherwise than by a breach of confidence by you or on your behalf.*

*Equally, nothing in this Agreement, including but not limited to clauses 9, 10 and 11, shall prejudice any rights that you have or may have under the Public Interest Disclosure Act 1998 ("PIDA") (or any other enactment which PIDA amends) and/or any obligations that you have or may have to raise concerns about patient safety and care with regulatory and other appropriate statutory bodies pursuant to your professional and ethical obligations including those obligations set out in guidance issued by regulatory or other appropriate statutory bodies from time to time.*

We believe this affords protection to all individuals in terms of their rights to make protected disclosures without concern of action by the Trust for breach of a settlement agreement/COT3 agreement or similar.

I hope you find this information helpful.

If, for whatever reason you are unhappy with our response, you are entitled to pursue any dissatisfaction through South East Coast Ambulance NHS Foundation Trust's (SECamb) Internal Review Procedure at:

South East Coast Ambulance Service NHS Foundation Trust  
40-42 Friars Walk  
Lewes  
East Sussex

BN7 2XW

Email:complaints@secamb.nhs.uk

Should you remain unhappy with the outcome of any such internal review , you may request a decision from the Information Commissioner at:

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

If I can be of further assistance to you, please do not hesitate to contact me, quoting the above reference number.

Yours sincerely

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