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| Reference: | FOI.6362.21 |
| Subject: | Associate Hospital Managers Hearings |
| Date of Request: | 30 June 2021 |

Requested:

FOI 6360

I am writing to request that you provide me with any policy documents or related materials concerning the organisation and running of Associate Hospital Managers Hearings under s.23 of the Mental Health Act 1983 which have been adjusted or created during the course of the on-going Covid-19 pandemic. This might include, for example, policy changes on moves to remote hearings and in relation to so-called 'paper' hearings, and policies on facilitating the engagement of patients, Nearest Relatives and others with remote modes of conducting hearings.

FOI 6361

I request that you provide the following data and information:

1. The equality and diversity (E&D) data you hold on those persons currently appointed by Hywel Dda University Health Board to exercise the hospital managers' discharge power contained in s.23 of the Mental Health Act 1983. The post to which these individuals are appointed is generally referred to as that of 'Associate Hospital Manager' (AHMs) or 'Hospital Manager', although other titles exist.
2. If applicable, please separate the data for the Chair and Non-Executive Directors who exercise the s.23 power, and any other persons appointed specifically to exercise the power AHMs).
3. The total number of people currently appointed by the Trust as AHMs.

As an indication of the type of data which I anticipate is contained within the dataset, I have listed the equality and diversity categories and sub-divisions used by NHS Digital to present equality and diversity statistical information about the NHS workforce below, Appendix 1.

If the Trust uses different categories to those employed by NHS Digital, please supply the data according to the categories used within the Trust along with the policy for gathering these statistics.

APPENDIX 1 - NHS Digital Equality and Diversity Dataset Categories

- Gender of AHMs in post
 - Male
 - Female
 - Not disclosed
 - Transgender
- Disability status of AHMs in post
 - Disabled
 - Not disabled

- Not disclosed
- Ethnicity of AHMs in post
 - BAME
 - White
 - Not disclosed
- Sexual orientation of AHMs in post
 - LGB+
 - Heterosexual
 - Not disclosed
- Marital status of AHMs in post
 - I am not requesting marital status data.
- Age band of AHMs in post
 - <= 24
 - 25 to 34
 - 35 to 44
 - 45 to 54
 - 55 to 64
 - >=65
 - Not shared
- Religious beliefs of AHMs in post
 - Atheism
 - Buddhism
 - Christianity
 - Hinduism
 - Islam
 - Judaism
 - Sikhism
 - Other
 - Not disclosed

I am not requesting marital status data.

FOI 6362

I am writing to make a Freedom of Information Act request that you provide me with the data held by Hywel Dda University Health Board in relation to hearings convened under the s.23 discharge power contained in the Mental Health Act 1983 (s.23 MHA 1983). These hearings are generally referred to as Hospital Managers' Hearings, Associate Hospital Managers' Hearings, or Hospital Managers' Panels.

This is a request for updated statistical information to be released taking in the years 2018/19, 2019/20, and 2020/21 (running April to March for each year).

If data is held at both a hospital level and the same data is also centrally aggregated within the Trust, then I would only like access to the central dataset.

Information included in such a dataset(s) might include, but may not be limited to:

- Number of hearings scheduled, which may include a breakdown by type of hearing (e.g. divided by type of section (section 2, 3 etc.), and/or type of hearing (e.g. s.20 renewal, s.25 barring order)).
- Number of discharges, perhaps broken down by type of section/ hearing.
- Number of times a hearing request was refused because of the proximity of a Mental Health Tribunal hearing (38.13 *MHA 1983 Code of Practice*, 2015)
- Number of hearings cancelled before the hearing took place, with reasons (e.g. Responsible Clinician discharged patient, Tribunal discharged patient)
- Number of hearings held, perhaps broken down by type of section/ hearing (e.g. paper hearing).
- Number of adjournments, perhaps broken down by type of section/ hearing.
- Attendees at the hearing. For example, the number of times a patient attended, or was accompanied by their legal represented, or their Nearest Relative

Response:

FOI 6360

Hywel Dda University Health Board (UHB) provides, a copy of the guidance issued by Welsh Government on the functions of Hospital Managers during the pandemic, in relation to the organisation and running of Associate Hospital Managers Hearings (AHMHs) under s.23 of the Mental Health Act 1983 (MHA), which is still currently in place, at Attachment 1. The UHB does not have a separate policy on Hospital Managers' functions.

FOI 6361

1. The UHB confirms that it does not record all Equality and Diversity data for individuals who exercise the role of Hospital Managers that can discharge power contained in s.23 of the MHA. Instead, only gender is recorded.
2. The UHB confirms that it currently has six (6) Independent Members that carry out the functions of Hospital Managers and can exercise the s.23 power.
3. The UHB confirms that it currently has a total of thirteen (13) Hospital Managers that can exercise the s.23 power.

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The UHB is unable to provide you with all of the information requested, as it is estimated that the cost of answering your request would exceed the "appropriate level" as stated in the Freedom of Information (Fees and Appropriate Limit) Regulations 2004. The "appropriate level" represents the estimated cost of one person spending 18 hours (or 2 ½ working days) in determining whether the UHB holds the information, as well as locating, retrieving and extracting the information.

In order to provide you with all of the requested information, the UHB would need to undertake a manual trawl of all hearings' files, to identify the number of attendees, as this information was not recorded centrally, during the financial year 2018/19.

The UHB is therefore applying an exemption under Section 12 of the Freedom of Information Act 2000 (FoIA), which provides an exemption from a public authority's obligation to comply with a request for information where the cost of compliance is estimated to exceed the appropriate limit.

However, under section 16 of the FoIA, we are required, as a public authority, to provide advice and assistance so far as it is reasonable, to individuals who have made a request under FoIA.

Therefore, the UHB provides, within the table below, the number of hearings convened under the s.23 discharge power contained in MHA, including discharges, Section applications, Compulsory Treatment Order applications, renewals and nearest relative applications, cancelled hearings and refused hearings due to Mental Health Review Tribunals (MHRT), during the financial years 2018/19, 2019/20 and 2020/21.

| Hearings | 2018/19 | 2019/20 | 2020/21 |
|--------------------|---------|---------|---------|
| Hearings | 106 | 119 | 76 |
| Cancelled hearings | 20 | 38 | 27 |
| Refused hearings | 15 | 17 | 21 |

In addition the UHB provides, within the table below, the number and details of attendees at such hearings.

| Attendee | 2018/19 | 2019/20 | 2020/21 |
|------------------------------------|----------------------|---------|---------|
| Patient | Section 12 exemption | 46 | 27 |
| Independent Mental Health Advocacy | | 53 | 29 |
| Solicitor | | 15 | 12 |
| Relative/carer | | 23 | 10 |

The UHB is unable to break down the information further, due to the low numbers of cases (5 and under), as there is a potential risk of identifying individuals if this was disclosed. The UHB is therefore withholding this detail under Section 40(2) of the Freedom of Information Act 2000. This information is protected by the Data Protection Act 2018/General Data Protection Regulations 2016 (GDPR), as its disclosure would constitute unfair and unlawful processing and would be contrary to the principles and articles 6 and 9 of the GDPR. This exemption is absolute and therefore there is no requirement to apply the public interest test.

In reaching this decision, the Data Protection Act 2018/General Data Protection Regulations 2016 defines personal data as data which relates to a living individual who can be identified solely from that data or from that data and other information which is in the possession of the data controller.