

Our Ref: MW/FOI 420

South London Healthcare NHS Trust
Frogna Avenue
Sidcup
Kent
DA14 6LT

Tel: 0208 302 2678

6th April 2011

Email: boardsecretary.slh@nhs.net
www.slh.nhs.uk

To be e-mailed to: request-53015-a5c624e4@whatdotheyknow.com

Dear Ms Ellis

Your Freedom of Information (FOI) request

Thank you for your recent e-mail requesting information under the Freedom of Information Act. May I first apologise for the delay in responding to your request. The Trust understands the need to comply within the statutory 20 working day limit and at all times endeavours to do so however the Trust has been receiving a very high volume of requests that have required considerable research in order to compile an appropriate response.

Regarding the case Niekrash V South London Healthcare NHS Trust

- 1. Total cost of court costs incurred by South London Healthcare NHS Trust in the case Niekrash versus South London Healthcare NHS Trust.**

£150.000

- 2. Full cost of hiring a replacement doctor in the 10 weeks Mr Ramon Niekrash was unfairly suspended. What grade was the doctor hired.**

I understand you received a response to this question in an email from the Chief Executive on Friday 15th October 2010. To reiterate the cost of a locum would have been in the region of £70k to £90k per annum.

- 3. Total cost of the independent investigator and any other costs incurred.**

The Trust is not able to provide this information

- 4. Who made the final decision to suspend Mr Niekrash where are there minutes from this meeting where the decision was made. Are there any other meeting minutes related to Mr Niekrash's case available for me to see? With those named that caused this injustice.**

The Freedom of Information Act 2005 is very clear in this respect and I refer you to section 42. At this section it makes it clear that where legal professional privilege applies, such information is exempt and outside the scope of the Freedom of Information Act. Further at section 42(2), the need to confirm or deny does not arise.

In order to explain the position further and give advice as under section 16 of the Freedom of Information Act. The rules of evidence in England and Wales make the position of legal professional privilege very clear. When Ramon Niekrash took out a claim in the Employment Tribunal, then any discussions within the Trust that may or may not have taken place after receipt of the claim fall under legal professional privilege. Further such information is further protected under the rules of Litigation privilege.

5. With regard to the people that were proven to have bullied Mr Niekrash, harassed, ruined his reputation, leaving him with an extortionate amount of court fees. Have they received any punishment of any kind, as it appears to me so far they have not been made accountable for such appalling behaviour? I am quite sure if Mr Niekrash were to bully a colleague he certainly would have been suspended at the very least would he not. Why have none of those people been PUNISHED? Why have they not been made to pay the SLH court costs? How can other consultants or medical workers feel they can whistleblow, if the people in Mr Niekrash's case have been left to just carry on a normal life without being made an example of? Healthcare workers need to feel they can complain if the SLH is being run to a standard that is risking lives, should they not?

I refer you to the answer given to Question 4.

6. What is SLH policy on bullying in the workplace? Why Was Mr Niekrash not covered by the following human rights? Again I ask why when reading the acts below. Do those people that were/are guilty remain employed by South London healthcare and remain unpunished?

I have enclosed a copy of the Trust Anti Harassment and Bullying Policy.

6a Protection from Harassment Act 1997

A person guilty of an offence under this section is liable on summary conviction to imprisonment for a term not exceeding six months, or a fine not exceeding level 5 on the standard scale, or both. The Police have powers to issue restraining orders under this legislation.

Do you not agree they all fall into the following categories?

6b Criminal Justice & Public Order Act 1994

This defines a criminal offence of intentional harassment, which covers all forms of harassment, including sexual. A person is guilty of an offence if, with intent to cause a person harassment, alarm or distress, s/he:- uses threatening, abusive or insulting words or behaviour, or disorderly behaviour; or displays any writing, sign or other visible representation which is threatening, abusive or insulting, thereby causing that or another person harassment, alarm or distress

6C Health and Safety at Work Act 1974

Employers have a duty of care, so far as is reasonably practical, to ensure the health, safety and welfare of their employees. Harassment and bullying are recognised as serious health hazards because of the stress they can cause. If the employer fails to carry out these duties then they may be found to be negligent and therefore liable to prosecution.

6d Human Rights Act 1998

Inhuman and degrading treatment is prohibited under Article 3 of the Act.

Employers that do not try to prevent bullying and harassment outside the context of discrimination may be in breach of the Human Rights Act.

6E Race Relations Act 1976 and Race Relations (Amendment) Act 2000

It is unlawful to discriminate against a person on the grounds of race, colour, nationality, citizenship or ethnic origins. The complaint must show that the harassment created an intimidating, hostile, or offensive working environment, or interfered with the individual's work performance causing them a detriment. Racial violence is a criminal offence and proceedings in cases of racial abuse and harassment may be brought under both criminal and civil law.

The Race Relations (Amendment) Act means that public bodies have a duty to promote race equality, to tackle racial discrimination, to encourage equal opportunity and good race relations.

Can you imagine what this poor man whose only crime was patient safety went through in those weeks, months and to date? The people responsible need to be brought to justice, do you not agree?

It is not clear what information is being sought under this element of your FOI request. May I ask you to clarify what information you are seeking with regard to this element of your request? In addition, we consider that Employment Law remedies would in these circumstances be more appropriate.

In addition the Trust has stated publically that we believe that Dr Niekrash was wrongly suspended by the legacy Queen Elizabeth Trust and that South London Healthcare NHS Trust has publically apologised on behalf of the legacy Trust.

Regarding Queen Elizabeth Hospital urology ward

- 1. Why is The Queen Elizabeth still without a much needed urology ward and when will it be getting one? Why has Mr Niekrash been moved to Bromley hospital? Patients young and old get Urological problems from the local borough. There will also soon be at least 850 soldiers back in Woolwich barracks as well as in 2 years thousands of people from the Olympics. The hospital can not possibly run without a urology ward with an ever increasing local population do you not agree.**

As stated previously in a letter to you dated 28th February 2011 it is not accurate to say that hospitals with 'so many local patients' can't survive without a urology ward. In fact, leading cancer specialists and the Cancer Networks believe that patients are more likely to receive better care and have better outcomes when groups of hospitals join up into 'clusters' to have a specialist urology service rather than spread out at each location. This is the model that we are adopting, similar to that for stroke services.

- 2. Is it correct that urology patients are scattered around the hospital in different wards, where there are not specialist nurses to care for them. The hospital employed urologists such as Mr Ramon Niekrash and specialist urology nurses. How can they possibly do ward rounds in a hospital that employed them, when they do not have a specialised ward to treat patients.**

This is not correct. Decisions concerning health service reconfiguration are made in consultation with the Local Authority GPs and also the local population

- 3. How many clinical nurse specialists does the hospital have now? How many will there be to cope with so many more patients and with cancer in patients increasing.**

The number of Clinical Nurse Specialists is currently under review.

Regarding the Queen Elizabeth, Queen Mary's and PRUH hospital merge

- 1. Will there be a shuttle bus put in place for local people to travel to Bromley and Queen Mary's and visa versa, when they are forced to go to other hospitals because certain services have been moved to other hospitals. Elderly people can not cope and should not be forced to have to travel to other hospitals when The Queen Elizabeth is their local hospital. How will the elderly be able to visit loved ones when they are placed so far away? As so many of them are ill themselves and do not/can not drive.**

As stated previously in a letter to you dated 28th February 2011 in February 2003 the Government set out three key areas of action to improve patients' access to healthcare, and these included the updating of national eligibility criteria for patient transport. The Trust applies the nationally agreed criteria.

- 2. Have all GP'S and patient groups been involved in the decision to move these services and their patients, have there been complaints from GP and patient groups with regard to the amount of distance patients.....SICK patients will have to travel to and fro hospitals. If so what was the GP and patient groups' response.**

The consultation to change services, A picture of health, was one of the largest ever carried out in the NHS and was ultimately a decision made by Commissioners not the Trust. Following the election of the Coalition Government, a further review of the service changes were carried out by local GPs in the three boroughs, and this process included public and patient stakeholder involvement. The GPs supported the decision to make the service changes.

- 3. Can the hospital cope with the increasing amount of patients with the merge and guarantee patient safety which is paramount. As a patient of the borough I would like to know what assurance there is to me.**

I understand you received a response to this question in an email from the Chief Executive on Friday 15th October 2010. To reiterate Patient Safety is the Trust's number one priority, and whilst there is still progress to be made it is not fair on the 6000 staff doing a good job not to acknowledge the strides that have taken place over the last 2 years. Mortality, health care associated infection and outcomes in stroke and fractured neck of femur are measurably better.

- 4. Is the closure of Queen Mary's hospital which we are being told is only temporary, will it be reopening and when will it be re opening?**

Queen Mary's hospital is not closing but emergency and maternity services have been moved. Since the temporary closure, as stated in question 2, there has been a review by local GPs which backed their permanent closure, and this decision has since been endorsed by NHS London.

- 5. There are surgical training days for student doctors that take place in the South London Healthcare trust where live surgery takes place. Are patients informed that non qualified doctors are not only present at their surgery but are allowed hands on training with their operations?**

The London Deanery oversees junior doctor training and as such this process is very closely monitored and the Trust operates in line with Deanery Standards.

6. How many doctors are present in A&E at Queen Elizabeth hospital at any one time and how may is the legal requirement that should be there for patient safety reasons.

The number of doctors present in A&E changes throughout a given 24 hour period, depending on the business / acuity within the department i.e. the busier the department is, the more doctors we have.

If you are unhappy with the way your request for information has been handled may request a review by writing to Jennie Hall, Acting Chief Operating Officer, South London Healthcare NHS Trust, Queen Mary's Hospital, Frognal Avenue, Sidcup, Kent DA14 6LT, setting out your reasons. If you remain dissatisfied, with the handling of your request or complaint, you have the right to appeal to the Information Commissioner at:

The Information Commissioner's Office, Wycliffe House, Water Lane,
Wilmslow, Cheshire, SK9 5AF
Phone 0303 123 1113
Website: www.ico.gov.uk/

There is no charge for making an appeal.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Michael Weaver', with a long horizontal line extending to the right.

Michael Weaver
Trust Board Secretary