

South London and Maudsley 
NHS Foundation Trust

Information Governance Office
CR2
Maudsley Hospital
Denmark Hill
London SE5 8AZ

Mr David Mery
By way of email

28 May 2014

Dear Mr Mery

ICO Complaint Reference – FS50514652
Date of Request – 11th June 2013 ('the Request')

I refer to previous correspondence in relation to the Request and more recently to your complaint to the ICO.

I am writing to inform you that the Trust will publish a redacted version of the detailed report on the Trust's website by the end of 28 May 2014. As I informed you in my email dated 14 May 2014, this is a further document which was originally overlooked in the search for information falling within the scope of the Request. The document in question is a detailed underlying report to which the document disclosed to you on 29 August 2013 the "*Report into Incidents which took place at River House,*" is related.

For ease of reference, The Trust is aiming to publish the report in the 'Policy and Publications' section of the Trust website under a sub-menu called 'Reviews and Reports'. You will be able to find the 'Policy and Publications' section under 'About Us' when you visit the Trust website at www.slam.nhs.uk

The detailed report contains patient identifiable data as well as some other information which the Trust considers to be exempt from disclosure. Consequently, the Trust has redacted appropriate sections of the document. The exemptions the Trust applied are explained in detail below:

Section 38 – Health and Safety

1. The Trust exempted information that falls under sections 38 (b) of the Freedom of Information Act 2000(FOIA), as it considers that disclosure of the Report in its unredacted form,

"Would or would be likely to –

(b) Endanger the safety of an individual."

2. The Trust considers that disclosure of the withheld information would be likely to endanger the safety of both the staff and patients of River House. The Trust is concerned that disclosure of detailed information regarding the procedures and techniques by which the Trust will tackle patient disturbances could be used to undermine those procedures and ultimately pose a safety risk to staff and to patients.

3. The exemption in section 38 FOIA is 'qualified' which means that the Trust is under an obligation to apply the 'public interest test.' The Trust has considered the following public interest arguments that would weigh in favour of disclosure of the unredacted Report:-

- (i) Further the understanding and participation in the public debate of issues of the day. The Trust appreciates the importance of disclosing information which furthers the understanding of the public in issues of the day, which is partially why it published the Report, albeit in a redacted format. The Trust does not consider disclosure of the redacted passages of the Report will go any further in promoting public understanding of the incidents.
- (ii) Promoting accountability and transparency by public authorities for decisions taken by them. The Trust considers that it has disclosed as much of the Report as possible in order to demonstrate accountability for issues which arose at the Trust and to show how the Trust intends to prevent similar occurrences in the future. The Trust does not consider that the addition of the redacted passages in the Report would further demonstrate accountability, and would instead be more likely to cause significant safety concerns for staff working in River House and in fact officers from other agencies.
- (iii) Promoting accountability and transparency in the spending of public money. Again, the Trust has as far as it considers possible, disclosed the aspects of the Report which demonstrate the way in which public money was spent on the incident and the way in which it could be spent to avoid such incidents from occurring in the future.

Staff operating in a secure ward caring for patients with, in many cases, severe mental health conditions, should be able to put in place confidential strategies for dealing with adverse emergency circumstances. Disclosure of these types of plans and strategies could significantly undermine the safety of the staff.

- (iv) Allowing individuals, companies and other bodies to understand decisions made by public authorities affecting their lives. Again, the Trust considers that it has disclosed sufficient parts of the Report to demonstrate the decisions it has made regarding security and staffing at River House.
- (v) Bringing to light information affecting public health and safety. The incidents referred to in the Report did not directly relate to public health and safety, although they did relate to the safety of both patients and staff of the Trust. The disclosure of the redacted information in the Report will not bring to the public's attention any information affecting public health and safety.

On balance, the Trust considers the public interest balance to lie in favour of maintaining the exemption in section 38 (b).

Section 40 – Personal Data

- 1. Staff and patient details have been redacted in sections of the Report which relate directly to the two incidents which took place at River House in October 2012. Whilst individuals are not specifically named in the Report, it is very likely that in some or even all cases they could be identified from job titles, confidential clinical details together with the description of the incidents which took place.
- 2. Staff and patients would not expect their information to be disclosed, particularly in relation to an incident of the kind described in the Report.
- 3. The damage and distress caused to individuals could be considerable if their details were to be released.

4. It would be inappropriate to seek consent in these circumstances and in any event it seems highly unlikely that the staff and patients involved would consent the disclosure of their details.
5. Disclosure of individuals' details would not be warranted because the individuals concerned could be targeted specifically and subjected to detrimental treatment if their details were to be released.

The exemption in section 40(2) of FOIA is 'absolute,' meaning that the Trust is not required to apply the public interest test. I have copied in the ICO Case Officer dealing with your complaint, in order that he is aware of the publication of the redacted document.

If you have any queries regarding this letter and or questions about the exemptions applied, please do not hesitate to get in touch with me.

Yours sincerely

Murat Soncul
Head of Information Governance

cc. Mr Alun Johnson, Senior ICO Case Officer, ICO