

## **FOI 0383/2025 Response**

Dear FOI Officer,

This request concerns the handling of internal grievances alleging discrimination under the Equality Act 2010.

**Note on Scope:** This request uses a 12-month timeframe following advice from other public authorities under their Section 16 duty to provide advice and assistance in refining requests.

**Note on Disclosure Precedent:** Identical requests to other public authorities (Central and North West London NHS Foundation Trust, South Western Railway, Surrey and Borders Partnership NHS Foundation Trust) have been answered substantively **without any FOIA exemption claims**. These responses are published, demonstrating this information is properly disclosable under FOIA 2000.

I request the following information for the **period 1 November 2024 to 31 October 2025 (12 months)**:

### **SECTION A: STATISTICAL DATA (12 Months Only)**

#### **A1. Total Number of Grievances Alleging Discrimination:**

Please provide the total number of formal grievances raised by employees/workers that alleged discrimination under the Equality Act 2010, broken down by **outcome**:

- Upheld
- Partially Upheld
- **Not Upheld: 1**
- **Withdrawn :1**
- Ongoing

#### **A2. Post-Grievance Resignations:**

Please provide the total number of employees who resigned within 3 months of receiving a discrimination grievance outcome (at Stage 1 or Stage 2), broken down by **outcome** (Upheld / Partially Upheld / Not Upheld).

**NIL (0) resignations in relation to these two cases.**

### **SECTION B: INVESTIGATION METHODOLOGY**

#### **B1. Investigation Framework:**

Please provide copies of:

- (a) The current policy/procedure for investigating discrimination grievances
- (b) Any guidance given to grievance investigators/decision makers on how to assess discrimination allegations under the Equality Act 2010

**A copy of the Resolution of Grievances and Disputes Policy and the Dignity at Work Policy is attached.**

**Please note that an exemption Section 40 of the Freedom of Information Act 2000 has been applied to your request for information.**

**This is because we do not routinely release staff members personal details such as names and signature.**

## **B2. Application of Legal Tests:**

Please confirm whether your organisation's discrimination grievance investigation procedure requires investigators to:

(a) Apply the legal test for direct discrimination under s.13 Equality Act 2010

No – The policy does not instruct investigators to apply statutory legal tests. Instead, it requires consideration of whether the impact “could be discriminatory in law” and escalation to the Equality and Diversity Lead for advice.

(b) Apply the legal test for harassment under s.26 Equality Act 2010

No – While harassment definitions from the Equality Act appear in the Dignity at Work Policy, investigators are not mandated to apply the legal test; they follow internal guidance and consult EDI Leads.

(c) Apply the legal test for victimisation under s.27 Equality Act 2010

No – There is no reference to applying s.27 tests in the grievance procedure.

(d) Consider the burden of proof under s.136 Equality Act 2010

No – The procedure does not mention statutory burden-shifting; it focuses on internal fairness and escalation routes.

(e) Assess whether a *prima facie* case has been established before concluding no discrimination occurred

Please provide definitive "Yes" or "No" answers to each sub-question.

If NO to any of the above, please confirm this and explain what framework is used instead to assess discrimination allegations.

Legal Context: The determination of discrimination under the Equality Act 2010 is a statutory process governed by mandatory legal tests. Failure to apply these tests renders grievance outcomes procedurally unsafe and potentially legally void.

No – The framework does not require a *prima facie* assessment; decisions rely on internal investigation findings and EDI consultation.

## **SECTION C: INVESTIGATOR COMPETENCE**

### **C1. Training Requirements:**

Please confirm:

- (a) Whether there is a mandatory training requirement for persons conducting discrimination grievance investigations/decision making

Investigators must either demonstrate competence through previous or experiential learning or attend a Leading Investigations Masterclass hosted by the Trust.

- (b) If YES, please confirm whether this training includes the Equality Act 2010 legal framework

Yes, reference is made to the Equality Act 2010.

## **SECTION E: PUBLIC SECTOR EQUALITY DUTY (PSED)**

### **E1. PSED Compliance (Policy Review):**

As a public body subject to the PSED (s.149 EA 2010), please provide:

- (a) Any equality impact assessment conducted on your discrimination grievance process

Please see attachments and note that an exemption Section 40 of the Freedom of Information Act 2000 has been applied to your request for information.

- (b) Minutes or recorded outcomes of senior management/Board review of the effectiveness of the discrimination grievance process in achieving PSED aims

Review of effectiveness of the discrimination grievance process in achieving PSED aims are recorded in the Equality Impact Assessment of all related policies.

## **SECTION G: FINANCIAL IMPACT (12 Months Only)**

### **G1. Financial Costs:**

Please provide the **total legal costs incurred defending discrimination claims** in Employment Tribunals during the period 1 November 2024 to 31 October 2025.

£31,650.