

Date: **24 December 2019**

Our reference: **FOIRQ5530**

Dear Sir/Madam,

Thank you for your request for information, which we have processed under the Freedom of Information Act 2000. Please see our response to your following request for information:

Your Request

I have previously requested the number of deaths caused by Invasive Aspergillosis and have had a reply stating it was 6 between April 2016 and April 2019. I would like to know the particular strain of each of these cases of Aspergillosis.

Our Request for Clarification

We contacted you for clarification on the exact meaning of 'the particular strain' in each case of Aspergillosis.

Your Response to Our Request for Information

You responded to confirm the type of information you are looking for is whether there is anything resistant to Aspergillus Fumigatus?

Our Response

Great Ormond Street Hospital for Children NHS Foundation Trust (the 'Trust') has relayed your request for information to the relevant teams for advice and assistance. The information you have requested is considered to be the personal data of individuals at GOSH. We are withholding the information under Section 40 'Personal Information' of the Freedom of Information Act (FOIA) 2000. Please see note below **

Please note **Great Ormond Street Hospital for Children NHS Foundation Trust (the 'Trust') is withholding information considered to be the personal data of third party individuals pertaining to a specific medical condition of less than (<5) covering the period specified. The Trust is withholding this information in order to reduce the risk of identifying an individual. We believe that providing the information would significantly increase the risk of individuals being identified. The Trust believes that Sections 40(2) of the Freedom of Information Act (FOIA) 2000 is applicable to withholding third party information that is considered to be a breach of their rights under the Data Protection Act (DPA) 2018.

The Trust categorises the personal information about our patients' health as data falling under the DPA. Therefore, we believe Section 40(2) of the FOIA applies to the information requested in line with the Trust's duty of confidentiality where personal data is withheld on the grounds that it would contravene the First Data Protection Principles. The Trust has a duty under the DPA and the First Data Protection Principle to process personal data relating to the Trust's patients fairly and lawfully in accordance with the conditions under the DPA.

In line with the guidance from the Information Commissioner's Office based upon the requirements of the DPA the Trust has considered first whether it would be "fair" to process and disclose the requested information, and whether it would be lawful to disclose the requested information before considering whether any of the relevant conditions have been met. Disclosing medical information to the public regarding the Trust's patients is likely to lead to emotional distress of the patients and their families. It is also the Trust's position that there is a reasonable expectation on the part of the Trust's patients and their families that their sensitive personal data would not be disclosed to FOI applicants.

A breach of this expectation would have the effect of the data being processed unfairly. The information that forms part of the medical records of an individual is therefore implicitly confidential. The courts and the Information Commissioner have long recognised the strong public interest inherent within keeping confidential medical information confidential. The Trust holds the view that Section 41 (1) of the FOIA is applicable for the reasons that: the information was obtained by the Trust; it has the necessary quality of confidence (being neither generally accessible nor trivial); and disclosure of this information to an FOI applicant would give rise to an actionable breach of confidence. Your request for information is therefore exempt under Section 40(2), including Section 41(1) of the FOIA.

Please note:

The information we have provided under the Freedom of Information Act 2000 is the information held on the date your request was received by the Trust.

We hope the information provided is sufficient and helpful in answering your questions or any issues or concerns. Should you have any further queries in relation to this request, please do not hesitate to contact the FOI Team and quote the above reference number on any related correspondence.

Re-use of information

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Yours sincerely

Freedom of Information team

Great Ormond Street Hospital for Children NHS Foundation Trust
Email: foiteam@gosh.nhs.uk

[Enclosed – Your rights – see next page]



NHS

**Great Ormond Street
Hospital for Children**
NHS Foundation Trust

Your Rights

Should you have any questions relating to the response you have received to your request for information, please do not hesitate to contact the FOI Team. Alternatively, you are entitled to make a request for an internal review within two months from the date of receiving our final response to your original request. You can also write to the Head of Quality & Safety at the following address:

Quality & Safety team
Great Ormond Street Hospital
LONDON
WC1N 3JH

If, however, you remain dissatisfied with the outcome of the internal review then you have the right to appeal to the Information Commissioner as the final stage of the FOI process. You can contact the Information Commissioner's Office at the following address:

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

Telephone: 0303 123 1113
Fax: 01625 524510