

Freedom of Information request 363-17

Request

I am writing to you under the Freedom of Information Act 2000 to request the following information:

1. How much money has been paid out by the health board per year for each of the last five years to settle equal pay claims? Please also tell me how many claims there were in total and the value of the largest pay out.
2. How many outstanding claims relate to equal pay are still outstanding and how much are these claims for in total?
3. Have there been any cases which have progressed to court and if so, how many?
4. How are settlement offers for equal pay claims calculated?

Response

1. The following sum was paid out to claimants by NHS Borders in financial year 2016/17. (The figures have been rounded up to the nearest pound). This is the only payment which has been made to claimants whose claims were raised as part of the mass NHS equal pay litigation which started in 2006/7.

Health Board	Number of claimants to whom settlement payments made	Total Amount Paid by Board to Claimants	Largest Pay Out
Borders	7	3892	610

2. NHS Borders has no live Employment Tribunal equal pay cases outstanding from the mass NHS equal pay litigation which started in 2006/7. None of the claimants has specified the monetary value of their claim.
3. In relation to the equal pay litigation which started in 2006/7 two cases, in which NHS Greater Glasgow and Clyde were the respondents, were the subject of a Preliminary Hearing on the question of time bar in 2011. The decision, which was in favour of the respondents, was unsuccessfully appealed to the EAT.

There have been no hearings on the merits of these cases, although there have been a number of case management hearings.

4. In relation to the equal pay litigation which started in 2006/7 this information is held by NHS Borders but is exempt from disclosure under section 36(1) of the Freedom of Information (S) Act as it is covered by litigation privilege. It is the position of NHS Borders that the public interest in disclosure is outweighed by the public interest in maintaining the exemption such that decision making about the basis upon which legal cases are settled remains confidential between solicitor and client.

If you are not satisfied with the way your request has been handled or the decision given, you may ask NHS Borders to review its actions and the decision. If you would like to request a review please apply in writing to, Freedom of Information Review, NHS Borders, Room 2EC3, Education Centre, Borders General Hospital, Melrose, TD6 9BS or foi.enquiries@borders.scot.nhs.uk.

The request for a review should include your name and address for correspondence, the request for information to which the request relates and the issue which you wish to be reviewed. Please state the reference number **363-17** on this request. Your request should be made within 40 working days from receipt of this letter.

If following this review, you remain dissatisfied with the outcome, you may appeal to the Scottish Information Commissioner and request an investigation of your complaint. Your request to the Scottish Information Commissioner should be in writing (or other permanent form), stating your name and an address for correspondence. You should provide the details of the request and your reasons for dissatisfaction with both the original response by NHS Borders and your reasons for dissatisfaction with the outcome of the internal review. Your application for an investigation by the Scottish Information Commissioner must be made within six months of your receipt of the response with which you are dissatisfied. The address for the Office of the Scottish Information Commissioner is, Office of the Scottish Information Commissioner, Kinburn Castle, Doubledykes Road, St Andrews, Fife.