

3rd September 2021

BY EMAIL

Our Ref: FOI 1544

Dear 

We refer to your email received by the Business Services Organisation (BSO) on 16th August 2021, elements of which have been treated as an FOI request under the above reference.

In your correspondence, you set out the following questions:-

1. How long has BSO been privy to this deception, if it can be euphemistically called that.

2. Why were pay rates initially altered, (reduced) for agency staff in if that is the case, in communication between Trusts /BSO and agencies, in providing them with guidance/ terms in a contract. Why were the rate cards misleading (at best and dishonest and intentional deception at worst.)

3. How many years old are the longest running contracts with the incorrect pay rates? Since the introduction of the Agency Workers Regulations (Northern Ireland) 2011 (AWR) all Contractors must ensure that all Agency Worker rates of pay comply with the AWR and the Agenda for Change pay structure as outlined in Part 2 of the NHS Terms and Conditions of Service Handbook. How could anyone be expected to believe that this was a genuine error, and how can you ?BSO/ Trusts claim they did not know about agency workers regulations?

4. Why is there a delay now in putting this right?

5. Was it a case that the rates were not altered (corrected) after AWR law became law in 2011? Since the introduction of the Agency Workers Regulations (Northern Ireland) 2011 (AWR) all Contractors must ensure that all Agency Worker rates of pay comply with the AWR and the Agenda for



Change pay structure as outlined in Part 2 of the NHS Terms and Conditions of Service Handbook.

6. Why would BSO , who creates the contracts, not take full responsibility for putting erroneous rates in a contract, and why would BSO then blame the people who signed the contracts they made?

7. Please outline the names and contact details of the BSO Board members.

Generally, the BSO absolutely refutes any suggestion that it has been involved in any deception in relation to these matters.

The BSO would refer you to previous responses to you and, in particular, the decision of the review panel regarding FOI 1486 which sets out the background and clearly explains the respective roles and responsibilities of all the relevant parties, namely the BSO, the Trust as the hirer and the Agency as employer.

Furthermore, in that decision letter, the BSO made you aware of the reminder issued to all Framework Agencies in relation to these issues and invited you to submit any evidence you may have that an agency has charged a Trust at an enhanced rate for unsocial hours and failed to pass that rate on to the worker. To date, we note that no such evidence has been submitted. The BSO does not believe that it can usefully add any further clarity to the explanation already provided to you.

In respect to the points raised in the above questions 3 & 5, we can advise that throughout the period since the introduction of the Agency Workers Regulations in 2011, framework agencies have been bound by both the Regulations and contractual obligations under the terms of the successive frameworks let by BSO PaLS to ensure that payments to agency workers comply with the Regulations and the Agenda for Change pay structure as outlined in Part 2 of the NHS Terms and Conditions Handbook (as applicable in Northern Ireland).

In relation to question 7, we can confirm that details of all members of the BSO Board can be accessed via the BSO website:

<https://hscbusiness.hscni.net/about/1839.htm>

I hope that the information provided assists you. If you are dissatisfied in any way with the handling of your request, you have the right to request a review. You should do this as soon as possible or in any case within two months of the date of issue of this letter.

In the event that you require a review to be undertaken, you can do so by writing to

Information Governance Manager,
2 Franklin Street,
Belfast,
BT2 8DQ

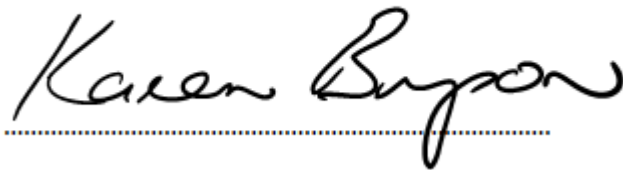
If, following an internal review, carried out by an independent decision making panel, you remain dissatisfied in any way with the handling of the request, you may make a complaint under Section 50 of the Freedom of Information Act, to the Information Commissioner's Office and ask that they investigate whether the BSO has complied with the terms of the Freedom of Information Act.

You can contact Information Commissioner at:

Website: www.ico.org.uk
Phone: 0303 123 1113
Email: casework@ico.org.uk
Post: Information Commissioner's Office
3rd Floor, 14 Cromac Place
Belfast
BT7 2JB

In most circumstances the Information Commissioner will not investigate a complaint unless an internal review procedure has been carried out. However the Commissioner has the option to investigate the matter at his discretion.

Yours Sincerely,

A handwritten signature in black ink that reads "Karen Bailey". The signature is written in a cursive style and is positioned above a horizontal dotted line.

Pp Karen Bailey
Acting Chief Executive