

Request under Freedom of Information Act 2000

Thank you for your request for information which we received on 12 October 2018.

I am pleased to confirm the following.

A monthly breakdown, from April 2017 onwards of the number of assessments conducted by you, together with the number of assessments that are considered to be “inside IR35” (i.e. 61M(1)(d) applies) and the number that are “outside IR35” (i.e. 61M(1)(d) does not apply)

Count of IR35 Compliance		
Period	In/Out	Total
Mar-17	In	2
	Out	4
Apr-17	In	2
	Out	1
May-17	In	2
Jun-17	In	6
	Out	2
Jul-17	In	2
Oct-17	In	1
Mar-18	In	1
Grand Total		23

Note that the table above does not include clinical workers, for which the Trust has made the following assessment:

‘The Trust confirms that in all cases of clinical workers (including, but not limited to, locum doctors, nurses, Allied Health Professionals and all roles included within the scope of the NHSCPP Clinical Staffing Framework), supplied by:

your agency; any connected agency; or any other agency under a sub-contract arrangement with your agency, the condition in 61M(1)(d) is not met.

The Trust is of the view that in the case of all clinical temporary workers supplied by you or any other agency either:

(i) if the services were provided under a contract directly between the client and the worker, the worker would be regarded for income tax purposes as an employee of the client or the holder of an office under the client,

and/or

(ii) the worker is an office-holder who holds that office under the client and the services relate to the office.

The reasons for the Trust reaching this conclusion are one or all of the following:

- *Clinical workers have no right of substitution.*
- *Other than medical consultants, clinical workers are subject to direction and control.*
- *Work has to be done on the Trust premises or other premises that the Trust may direct.*
- *Workers are not required to provide any significant items of personal equipment (e.g. doctor may provide a stethoscope, but the Trust does not consider this significant).*

Clinical workers either have to operate on a work-pattern decided by the Trust or a work pattern agreed with the Trust.

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If you are unhappy with the information received in response to this request, please address your complaint to the Patient Affairs Office at Milton Keynes Hospital NHS Foundation Trust, Standing Way, Eaglestone, Milton Keynes MK6 5LD. If, after exhausting our internal process, you are still unhappy with the information received, you may write to the Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

If you need any further assistance, please do not hesitate to contact us at the address above.

Yours sincerely,

Freedom Of Information Co-ordinator
For and on behalf of Milton Keynes Hospital NHS Foundation Trust

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