



Hull

Clinical Commissioning Group

Freedom of Information (FOI) Quarterly Report

NHS Hull Clinical Commissioning Group (CCG)

Quarter Three 2020/2021 report covering the period
from 1 October 2020 to 31 December 2020

Freedom of Information Delivery Manager

INTRODUCTION

This report provides the Quarter Three position for requests received by NHS Hull Clinical Commissioning Group (CCG) under the Freedom of Information Act 2000 (FOIA) during the period; 1 October to 31 December 2020 and a comparison against the previous quarter and the same period in 2019/2020. It also provides the cumulative year position 2020/2021 and 2019/2020 year comparison.

Volume of Requests and Timeliness of Responses

	Quarter 3 2019/20	Quarter 1 2020/21	Quarter 2 2020/21	Quarter 3 2020/21	Quarter 4 2020/21	Year to Date Comparison	
Requests Received	Oct - Dec	Apr – Jun	Jul – Sep	Oct– Dec	Jan - Mar	2019/20	2020/21
Total number of FOI requests received:	80	29	69	50		212	148
Total Number of FOIs Processed	78*	29	69	50		209*	148
Requests processed within 20 working days	78	29	69	50		209	148
Percentage processed FOIs Completed within 20 working days	100%	100%	100%	100%		100%	100%
Average time taken to process (days)	16	15	14	13		17	14

* Clarification was sought and not received therefore closed.

During Quarter Three 2020/2021 50 requests were received and processed compared and the 66 processed in Quarter Two. (80 requests were received, however, two were closed as clarification was sought and not received.)

This equates to a decrease of 27.5% in the number of FOI requests processed during Quarter Three compared to Quarter Two 2020/2021. The average number of days to process the requests also decreased in Quarter Three to 13 days compared to 14 days in Quarter Two, and all the requests processed during Quarter Three were completed within the statutory 20 working day deadline.

Comparing the number of requests processed during Quarter Three 2020/2021: 50 against the same period in 2019/2020: 78, equates to a 35.9% decrease. The average number of days to process the requests also decreased from 16 days in Quarter Three 2019/2020 to 13 Days in 2020/2021.

It is assumed that the variations and current decrease in the number of requests received during the period continues to be due to the COVID-19 Pandemic. However,

despite this the CCG continues to maintain the FOI Service and responses continue to be provided within the statutory timeframe.

Subject Area of Request

The CCG receives a variety of FOI requests on various topics and in some cases they contain multiple questions for various types of information. They are diverse and singular, however, the predominant subject area in Quarter Three was Primary Care with 7 requests, followed by Mental Health and Senior Team contact details with 5 requests each also proving a popular topic.

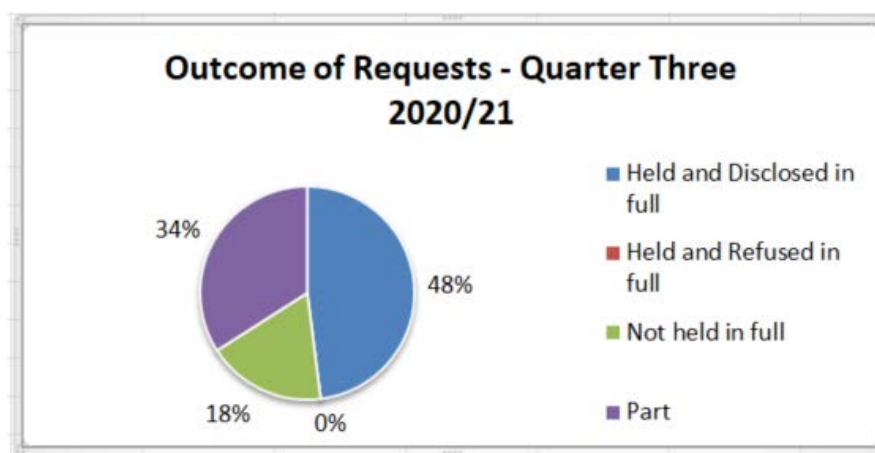
For a full illustration of the various topics for Quarter Two please see **Appendix One**.

Outcome of Requests Processed

The outcome of the processed requests by quarter is illustrated below:

	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Information Held and Disclosed in Full	21 (72%)	25 (36%)	24 (48%)	
Information Held and Refused in Full	1 (4%)	2 (3%)	0	
Information Not Held by the CCG	0	12 (17%)	9 (18%)	
Partially Disclosed as Not held by CCG or Exemption(s) applied	7 (24%)	30 (43%)	17 (34%)	
Total Number of Requests	29	69	50	

The chart below displays the proportion of requests by outcome for the quarter.



During Quarter Three 2020/2021, of the 50 requests processed; 4 (8%) had one or more exemptions applied to the request. One request can have multiple exemptions applied within the response.

The following table illustrates the number of instances information was not disclosed and the exemptions applied during the quarter. During Quarter Three the most commonly applied exemptions were Section 12 and Section 40 with 2 instances each, which demonstrates the CCG is able to apply the FOIA exemptions with regard to Exceeding the appropriate cost limit and Data Protection Legislation.

Number of instances Exemptions were applied

Exemption (Section)	Quarter 1	Quarter 2	Quarter 3	Quarter 4
12 - Cost of compliance	2	1	2	
21 - Accessible by other means	1	7	0	
40 - Personal Information	1	7	2	
Total	4	15	4	

* One request can have more than one exemption applied within the response.

The CCG has a duty under Section 16 to provide advice and assistance to individuals making requests for information under FOIA. In instances where the CCG does not hold the information requested or when information is accessible by other means, the CCG will advise applicants as to which organisation may hold the information. The table below shows which organisation(s) were highlighted as sources of information and on how many occasions during each quarter.

2020/ 2021	NHS- Acute	NHS- Mental Health	NHS Other	NHSE	GPs	Local Authority	NHS Prescription Services	NHS Digital	Independent Sector	Other
Q1	1	0	0	0	0	1	0	0	0	0
Q2	13	5	2	5	0	1	1	2	6	2
Q3	5	0	1	0	2	2	2	2	5	1
Q4										
Total	19	5	3	5	2	4	3	4	11	3

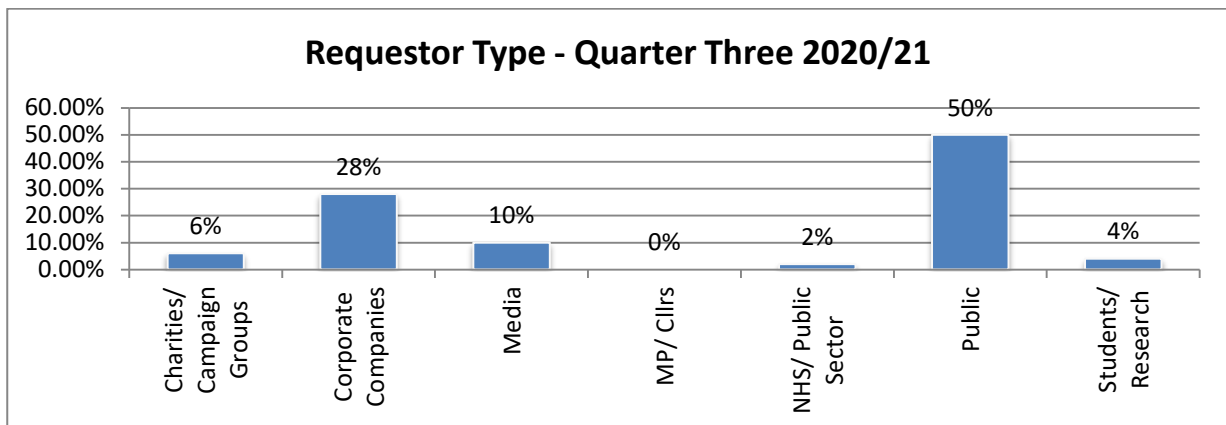
Category of Requester

In accordance with the FOIA, the CCG maintains an 'applicant-blind' approach when providing information in response to requests. Where possible the type of FOI requester is recorded by the FOI team to help identify where the main demand for information originates.

As shown in table and chart below the two main types of requester appear to be individual members of the public in this quarter.

Summary of Requesters*	Quarter 3 2019/20	Quarter 1 2020/21	Quarter 2 2020/21	Quarter 3 2020/21	Quarter 4 2020/21	Year to Date Comparison	
	Jul - Sep	Apr - Jun	Jul - Sep	Oct - Dec	Jan - Mar	2019/20	2020/21
Charities, Voluntary Sector / Campaign Groups	2	1	8	3		10	12
Corporate Companies	28	3	22	14		93	39
Media (local and national)	8	4	6	5		27	15
Members of Parliament / Local Councillors	0	0	1	0		2	1
NHS/ Public Sector Organisations	7	6	2	1		12	9
Individual Members of the Public	27	14	29	25		53	68
Students / Research	6	1	1	2		12	4
Total	78	29	69	50	0	209	148

Figures based on completed processed requests.



Internal Reviews

There were no Internal Review requests received during Quarter Three between 1 October and 31 December 2020.

Training

No FOIA specific training sessions were provided during Quarter Three due to the current restrictions for COVID-19. Virtual FOI general or specific training is available from the FOI Team on request.

Customer Feedback

The FOI Team provide an electronic survey link for the collection of anonymous feedback which is sent with every FOI response email. None were returned during Quarter Three.

The approved FOI Quarterly Reports have been published on the CCG website for some time and currently contain reports from 2018/2019 to date. The publication of each report is highlighted to CCG staff in the staff newsletter along with a web link following publication of the report.

Decision Notices - Information Commissioner's Office (ICO) and News

Appendix Two shows the ICO's health related Decision Notices for the quarter.

The COVID-19 Pandemic has continued to affect the NHS and FOI during Quarter Three. As the UK's response to COVID-19 continues to evolve towards recovery, the Information Commissioner has continued to make changes to adapt the regulatory approach with regards to Freedom of Information and Data Protection and published it on the ICO website as changes are made in order to provide up to date information. The ICO have remained pragmatic and empathetic to the pressures faced by public authorities and continues to be supportive and offer advice on responding to the challenges of the pandemic. More information can be found on the ICO website at: <https://ico.org.uk/about-the-ico/news-and-events/icos-blog-on-its-information-rights-work/>

In line with the guidance, the FOI Team continue to advise requesters of the ICO regulatory approach in the acknowledgment along with reassurance of our continued commitment. We have also continued to support and assist CCG staff who provide information for FOI requests and have maintained 100% compliance with FOIA response times during the quarter.

Freedom of Information Delivery Manager

Appendix One

Quarter Three: 1 October 2020 to 31 December 2020 Request Category by Subject Area

Row Labels	Count
Commissioning	35
Primary Care	6
Mental Health	5
Weight Management	2
Personal Health Budgets	2
Fertility Treatment	2
Ophthalmology	2
Covid-19	2
Sexual Health	2
Continuing Healthcare	2
Social Prescribing	1
Appliances	1
STP	1
Patient Transport	1
Learning Disabilities	1
NHS 111	1
Acute	1
Contracting	1
Prescribing	1
Telehealth	1
Corporate	7
Contact Details	5
Primary Care	1
Primary Care Networks	1
Pharmaceutical	5
Formulary	3
Medicine management	1
Prescribing	1
IT	2
IT Services	1
Cyber Security	1
HR	1
Recruitment	1
Grand Total	50

Appendix Two

DECISION NOTICES Health Related (31 in total) 1 October – 31 December 2020

South Tees Hospitals NHS Foundation Trust
22 Dec 2020, Health

The complainant has requested information within the contract for the former CEO of South Tees Hospitals NHS Foundation Trust (“the Trust”). The Trust provided some information but withheld the former CEO’s annual leave entitlement, citing section 40(2) of the FOIA for doing so. The Commissioner’s decision is that the Trust is not entitled to rely on section 40(2) due to the balance between the legitimate interests and the data subject’s interests or fundamental rights and freedoms favouring the disclosure of the former CEO’s annual leave entitlement. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation: Disclose the former CEO’s annual leave entitlement.

FOI 40: [Complaint upheld](#)
Decision notice IC-47265-C3Q9
PDF (1k)

Cardiff and Vale University Health Board
21 Dec 2020, Health

The complainant requested information about parking enforcement at various hospitals. Cardiff and Vale University Health Board (‘the Health Board’) provided some information and stated other information was not held. During the course of the Commissioner’s investigation the Health Board disclosed some additional information and withheld information relating to part 9 of the request under section 43 of the FOIA. The Commissioner’s decision is that the Health Board has incorrectly applied the provisions of section 43 and the exemption is not engaged. The Commissioner requires the Health Board to disclose the withheld information.

FOI 43: [Complaint upheld](#) FOI 10: [Complaint upheld](#)
Decision notice IC-47774-F4L4
PDF (1k)

Norfolk and Norwich University Hospitals NHS Foundation Trust
18 Dec 2020, Health

The complainant has made a request for information relating to the official address for Norfolk and Norwich University Hospital. Despite the intervention of the Commissioner, Norfolk and Norwich University Hospitals NHS Foundation Trust (the Trust) has not provided a response to the request in accordance with the FOIA. The Commissioner’s decision is that the Trust has failed to respond to the complainant’s request within 20 working days of receipt and has therefore breached section 10(1) of the FOIA. The Commissioner requires the Trust to provide the complainant with a response to the request in accordance with its obligations under the FOIA.

FOI 10: [Complaint upheld](#)
Decision notice IC-65744-X8Q1
PDF (1k)

United Lincolnshire Hospitals NHS Trust
17 Dec 2020, Health

The complainant has made a request for information relating to the decision to exclude partners from antenatal ultrasound scans. Despite the intervention of the Commissioner,

United Lincolnshire Hospitals NHS Trust (the Trust) has not provided a response to the request in accordance with the FOIA. The Commissioner's decision is that the Trust has failed to respond to the complainant's request within 20 working days of receipt and has therefore breached section 10(1) of the FOIA. The Commissioner requires the Trust to provide the complainant with a response to the request in accordance with its obligations under the FOIA.

FOI 10: **Complaint upheld**

Decision notice IC-65617-D5X4

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Manchester University NHS Foundation Trust
17 Dec 2020, Health

The complainant has requested Manchester University NHS Foundation Trust (the trust) to disclose information relating to the gynaecological procedures/operations carried out by a particular consultant. Initially the trust advised that the requested information was not held and some was exempt under section 40 of the FOIA. At the internal review stage it maintained this position but also claimed a late reliance on section 12 of the FOIA for some elements of the request. With regards to the information that is not held, the Commissioner is satisfied that on the balance of probabilities the recorded information is not held. In terms of the trust's application of section 12 and 40 of the FOIA, the Commissioner is satisfied that these sections apply to the respective elements of the complainant's request. However, the Commissioner has found the trust in breach of sections 1, 10 and 16 of the FOIA. For section 16 of the FOIA, the Commissioner requires the trust to provide the complainant with advice and assistance so far as it is reasonable to do so.

FOI 10: **Complaint upheld** FOI 40: **Complaint not upheld** FOI 16: **Complaint upheld** FOI 1: **Complaint upheld** FOI 12: **Complaint not upheld**

Decision notice IC-45091-X8M3

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Bedfordshire Hospitals NHS Foundation Trust
15 Dec 2020, Health

The complainant requested documents from Bedfordshire Hospitals NHS Foundation Trust (the Trust) relating to the merger of Luton and Dunstable University Hospital and Bedford Hospital and also for information regarding the recent recruitment for two general manager positions within the Trust. The Trust had failed to provide a response to either request by the date of this notice. The Commissioner's decision is that the Trust failed to respond to the requests within 20 working days and has therefore breached section 10 of the FOIA. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation. Issue a substantive response, under the FOIA, to both requests. The Trust must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the FOIA and may be dealt with as a contempt of court.

FOI 10: **Complaint upheld**

Decision notice IC-68949-L4S1

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Chesterfield Royal Hospital NHS Foundation Trust
10 Dec 2020, Health

The complainant has requested information about vascular services. The Chesterfield Royal Hospital NHS Foundation Trust stated that it did not hold the information. The

Commissioner's decision is that the Trust does not hold information within the scope of the request. The Commissioner does not require any further steps.

FOI 1: **Complaint not upheld**

Decision notice IC-66097-H4Z3

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University Hospital of Derby and Burton NHS Foundation Trust

10 Dec 2020, Health

The complainant has requested a series of documents about the Derbyshire vascular services network. The University Hospitals of Derby and Burton NHS Foundation Trust ("The Trust") refused the request as vexatious. The Commissioner's decision is that the Trust has not demonstrated that the request was vexatious and was therefore not entitled to rely on section 14(1) of the FOIA to refuse the request. As the Trust failed to respond to the request within 20 working days, it also breached section 10 of the FOIA. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation: issue a fresh response, to the request, which does not rely on section 14(1) of the FOIA.

FOI 10: **Complaint upheld** FOI 14: **Complaint upheld**

Decision notice IC-45105-W8Y3

PDF (1k)

Office for Students

8 Dec 2020, Health

The complainant requested copies of information demonstrating the action taken in respect of a particular institution. The Office for Students ("the OfS") refused to confirm or deny holding relevant information as it stated that to do so would prejudice its regulatory functions. The Commissioner's decision is that the OfS was entitled to rely on section 31(3) to refuse to confirm or deny holding information within the scope of the request and that the public interest favours maintain the exemption. However, as it failed to issue its refusal notice within 20 working days, the OfS breached section 17 of the FOIA. The Commissioner does not require further steps.

FOI 17: **Complaint upheld** FOI 31: **Complaint not upheld**

Decision notice IC-41994-C7B7

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General Medical Council

25 Nov 2020, Health

The complainant has requested the qualification and area of psychiatry expertise of an individual. The individual in question was employed by the General Medical Council (the GMC) to investigate a doctor responsible for the care of a close relative of the complainant, who died in hospital. The GMC has refused to confirm or deny that it holds this information under section 40(5B)(a)(i) of the FOIA, as it believes that to do so would disclose personal data, and that this disclosure would contravene data protection legislation. The Commissioner's decision is that the GMC can rely on section 40(5B)(a)(i) of the FOIA to refuse to confirm or deny that it holds the requested information, as she is satisfied that doing so would contravene data protection legislation. The Commissioner does not require any further steps to be taken as a result of this decision notice.

FOI 40: **Complaint not upheld**

Decision notice IC-46060-J1P6

PDF (1k)

Nottinghamshire Healthcare NHS Foundation Trust
17 Nov 2020, Health

The complainant has made a 110 part request for information relating to electroconvulsive therapy, serious incidents, restraints, seclusion and medication errors. The Trust refused to comply with the requests as it said it would exceed the cost limit under section 12 FOIA to do so. The Commissioner's decision is that the Trust was correct to apply section 12 FOIA and that it was not therefore obliged to comply with the requests. However the Commissioner considers that the Trust failed to provide the complainant with advice and assistance in accordance with its obligations under section 16 FOIA. The Commissioner requires the public authority to provide the complainant with advice and assistance in accordance with the requirements of section 16 FOIA.

FOI 12: [Complaint not upheld](#) FOI 16: [Complaint upheld](#)

Decision notice IC-41192-S0M3

[PDF \(1k\)](#)

Meridian Surgery
16 Nov 2020, Health

The complainant requested information from the Meridian Surgery (the Surgery) about their prescribing statistics since 2015 for Eczema preparations and for any audits relating to Asthma and Eczema care that they had conducted. The Surgery had failed to provide a substantive response by the date of this notice. The Commissioner's decision is that the Surgery failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA. The Commissioner requires the Surgery to take the following steps to ensure compliance with the legislation. Issue a substantive response, under the FOIA, to the request. The Surgery must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the FOIA and may be dealt with as a contempt of court.

FOI 10: [Complaint upheld](#)

Decision notice IC-54639-N2B8

[PDF \(1k\)](#)

Devon Partnership NHS Trust
13 Nov 2020, Health

The complainant requested information about the use of the Hare PCL :SV test.

Devon Partnership NHS Trust ("the Trust") initially refused to accept the request as being valid before later refusing the request as vexatious. The Commissioner's decision is that the Trust has failed to demonstrate that the request was vexatious and is therefore not entitled to rely on section 14(1) of the FOIA to refuse it. She also finds that the Trust failed to respond to the request with 20 working days and thus also breached section 10 of the FOIA. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation: issue a fresh response, to the request, which does not rely on section 14(1) of the FOIA.

FOI 14: [Complaint upheld](#) FOI 10: [Complaint upheld](#)

Decision notice IC-49190-R6T8

[PDF \(1k\)](#)

Barnet Enfield and Haringey Mental Health NHS Trust
10 Nov 2020, Health

The complainant has made a 110 part request for information relating to electroconvulsive therapy, serious incidents, restraints, seclusion and medication errors. The Trust refused to comply with the requests as it said it would exceed the cost limit under section 12 FOIA to do so. The Commissioner's decision is that the Trust was correct to apply section 12 FOIA and that it was not therefore obliged to comply with the requests. The Commissioner also considers that the Trust provided the complainant with advice and assistance in accordance with its obligations under section 16 FOIA. The Commissioner requires no steps to be taken.

FOI 12: **Complaint not upheld** FOI 16: **Complaint not upheld**

Decision notice IC-42083-Z7N1

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Bradford District Care NHS Foundation Trust

10 Nov 2020, Health

The complainant has made a 110 part request for information relating to electroconvulsive therapy, serious incidents, restraints, seclusion and medication errors. The Trust refused to comply with the requests as it said it would exceed the cost limit under section 12 FOIA to do so. The Commissioner's decision is that the Trust was correct to apply section 12 FOIA and that it was not therefore obliged to comply with the requests. However the Commissioner considers that the Trust failed to provide the complainant with advice and assistance in accordance with its obligations under section 16 FOIA. The Commissioner requires the public authority to provide the complainant with advice and assistance in accordance with the requirements of section 16 FOIA.

FOI 12: **Complaint not upheld** FOI 16: **Complaint upheld**

Decision notice IC-42207-H2S6

PDF (1k)

Epsom and St Helier University Hospitals NHS Trust

9 Nov 2020, Health

The complainant requested information from Epsom and St Helier University Hospitals NHS Trust (the Trust) about the decision by the Trust to conduct a recent post-operation survey. The Trust had failed to provide a substantive response by the date of this notice. The Commissioner's decision is that Epsom and St Helier University Hospitals NHS Trust (the Trust) failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation. Issue a substantive response, under the FOIA, to the request. The Trust must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the FOIA and may be dealt with as a contempt of court.

FOI 10: **Complaint upheld**

Decision notice IC-56777-V1N3

PDF (1k)

East London NHS Foundation Trust

5 Nov 2020, Health

The complainant has requested from East London NHS Foundation Trust (the "Trust") information about aspects of its mental health treatment services. The Trust refused to provide the requested information, citing section 12(1) of the FOIA – that the cost of complying would exceed the appropriate limit for compliance. The Commissioner's decision is that the Trust has correctly cited section 12(1) and provided advice and assistance to the

complainant in line with its duty under section 16(1) of the FOIA. However, the Trust breached section 10(1) of the FOIA by not responding within the statutory time for compliance. The Commissioner does not require the public authority to take any further steps.

FOI 16: **Complaint not upheld** FOI 12: **Complaint not upheld** FOI 10(1): **Complaint upheld**
Decision notice IC-53479-Z0N8

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NHS Commissioning Board (NHS England)
2 Nov 2020, Health

The complainant requested from the NHS Commissioning Board (NHS England) information regarding the orthodontic procurement process run by NHS England. The Commissioner's decision is that NHS England has failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA. The Commissioner requires NHS England to take the following steps to ensure compliance with the legislation. • Issue a substantive response to the request in accordance with its obligations under the FOIA. NHS England must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

FOI 10: **Complaint upheld**
Decision notice IC-45122-Z0R4

PDF (1k)

Pennine Care NHS Foundation Trust
28 Oct 2020, Health

The complainant has requested from Pennine Care NHS Foundation Trust (the "Trust") information about aspects of its mental health treatment services. The Trust refused to provide the requested information citing section 14(1) of the FOIA, that the request was vexatious and that responding to it would be a grossly oppressive burden. The Commissioner's decision is that the Trust was not entitled to rely on section 14(1) to refuse the request. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation. • Issue a fresh response to the request which does not rely on section 14(1) of the FOIA.

FOI 14: **Complaint upheld**
Decision notice IC-43135-H7C0

PDF (1k)

General Medical Council
26 Oct 2020, Health

The complainant has requested registration information about a named doctor. The General Medical Council (GMC) has withheld the information under section 40(2) of the FOIA as it considers it to be the personal data of third persons. The Commissioner's decision is as follows: The GMC is entitled to withhold the information the complainant has requested under section 40(2) of the FOIA as it is the personal data of a third person and disclosing it would be unlawful. The Commissioner does not require the GMC to take any remedial steps.

FOI 40: **Complaint not upheld**
Decision notice IC-47549-W6H0

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Lincolnshire Partnership NHS Foundation Trust

26 Oct 2020, Health

The complainant has requested from Lincolnshire Partnership NHS Foundation Trust (the “Trust”) information about aspects of its mental health treatment services. The Trust refused to provide the requested information, citing section 12(1) of the FOIA – that the cost of complying would exceed the appropriate limit for compliance. The Commissioner’s decision is that the Trust has correctly cited section 12(1) and provided advice and assistance to the complainant in line with its duty under section 16(1) of the FOIA. The Commissioner does not require the Trust to take any further steps. Information Tribunal appeal EA/2020/0307 under appeal.

FOI 12: **Complaint not upheld** FOI 16: **Complaint not upheld**

Decision notice IC-45331-F8T5

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Imperial College Healthcare NHS Trust

19 Oct 2020, Health

The complainant requested information from Imperial College Healthcare NHS Trust (the Trust) about the total expenditure in the financial years 2017/18 to 2019/20 on equipment for Pathology services. The Trust originally relied on section 43 of the FOIA (prejudice to commercial interests) to withhold the requested information before subsequently disclosing it. The Commissioner’s decision is that the Trust failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA. The Commissioner does not require any further steps.

FOI 10: **Complaint upheld**

Decision notice IC-62347-F2M7

PDF (1k)

NHS England

19 Oct 2020, Health

The complainant has requested information from the NHS Commissioning Board (NHS England) about mental health funds. At the date of this notice, NHS England has not provided a response to the request. The Commissioner’s decision is as follows: NHS England has breached section 10(1) of the FOIA as it has not provided a valid response to the request within the statutory timeframe of 20 working days. The Commissioner requires NHS England to take the following step to ensure compliance with the legislation: Provide a response to the complainant’s request of 9 March 2020 that complies with the FOIA.

FOI 10: **Complaint upheld**

Decision notice IC-61079-P4P6

PDF (1k)

Southern Health NHS Foundation Trust

19 Oct 2020, Health

The complainant has requested from Southern Health NHS Foundation Trust (the “Trust”) information about aspects of its mental health treatment services. The Trust refused to provide the requested information, citing section 12(1) of the FOIA – that the cost of complying would exceed the appropriate limit for compliance. The Commissioner’s decision is that the Trust has correctly cited section 12(1) and provided advice and assistance to the complainant in line with its duty under section 16(1) of the FOIA. The Commissioner does not require the public authority to take any further steps.

FOI 12: **Complaint not upheld** FOI 16: **Complaint not upheld**

Decision notice IC-42472-H1K1

PDF (1k)

West London NHS Trust

15 Oct 2020, Health

The complainant has requested from West London NHS Trust (the “Trust”) information about aspects of its mental health treatment services. The Trust refused to provide the requested information, citing section 12(1) of the FOIA – that the cost of complying would exceed the appropriate limit for compliance. The Commissioner’s decision is that the Trust has correctly cited section 12(1) and provided advice and assistance to the complainant at internal review stage in line with its duty under section 16(1) of the FOIA as far as it was reasonable to expect the public authority to do so. The Commissioner does not require the public authority to take any further steps. Information Tribunal appeal EA/2020/0295 under appeal.

FOI 12: **Complaint not upheld** FOI 16: **Complaint not upheld**

Decision notice IC-41816-Y6D1

PDF (1k)

Royal Free London NHS Foundation Trust

15 Oct 2020, Health

In 2018 the complainant submitted a request to the Royal Free London NHS Foundation Trust (‘the Trust’) for information associated with the creation of a subsidiary property service company. The request covered attachments to email correspondence but the Trust did not consider the attachments in its response. The Trust has now considered the request for attachments and has refused to comply with this aspect of the original request, citing FOIA sections 12(1) (cost exceeds appropriate limit) and section 14(1) (vexatious requests). In addition, the Trust indicated to the complainant that it considered that information in the attachments would engage the exemptions under section 36(2)(prejudice to effective conduct of public affairs), section 40 (personal data), section 41 (information provided in confidence), section 42 (legal professional privilege) and section 43(2) (commercially sensitive) of the FOIA. The Trust subsequently advised the Commissioner that, at this point, it is relying on section 12(1) and section 14(1) only in respect of the attachments. The Commissioner’s decision is as follows: The Trust cannot rely on section 12(1) of the FOIA to refuse to comply with the request for the attachments. The request for attachments can be categorised as a vexatious request under section 14(1) of the FOIA because of the disproportionate burden that complying with it would cause the Trust. The Commissioner does not require the Trust to take any remedial steps.

FOI 14: **Complaint not upheld** FOI 12: **Complaint upheld**

Decision notice IC-45378-P6C4

PDF (1k)

Cumbria, Northumberland, Tyne and Wear NHS Foundation Trust

12 Oct 2020, Health

The complainant requested information from Cumbria, Northumberland, Tyne and Wear NHS Foundation Trust (“the Trust”) about a survey carried out by users of the Northern Region Gender Dysphoria Service (“NRGDS”). The Trust provided some information, but stated that the survey results were exempt from disclosure under section 40(2) of the FOIA – third party personal data. Subsequently, the Trust stated that it also considered the survey results to be exempt under section 36(2) of the FOIA – prejudicial to the effective conduct of public affairs, and/or section 38(1) of the FOIA – endangering health and safety. The Commissioner’s

decision is that some parts of the withheld information comprise special category personal data, and were correctly withheld under section 40(2). She has also determined that the remainder of the information is exempt from disclosure under section 36(2)(c). The Commissioner does not require the Trust to take any steps.

FOI 36: **Complaint not upheld** FOI 40(2): **Complaint not upheld**

Decision notice IC-43395-T5Z8

PDF (1k)

North West Boroughs Healthcare NHS Trust
9 Oct 2020, Health

The complainant has made a 110 part request for information relating to electroconvulsive therapy, serious incidents, restraints, seclusion and medication errors. The Trust refused to comply with the requests as it said it would exceed the cost limit under section 12 FOIA to do so. The Commissioner's decision is that the Trust was correct to apply section 12 FOIA and that it was not therefore obliged to comply with the requests. The Commissioner also considers that the Trust provided the complainant with advice and assistance in accordance with its obligations under section 16 FOIA. Information Tribunal appeal EA/2020/0292 under appeal. The Commissioner requires no steps to be taken.

FOI 12: **Complaint not upheld**

Decision notice IC-40913-S4D6

PDF (1k)

Norfolk and Suffolk NHS Foundation Trust
8 Oct 2020, Health

The complainant has made a 110 part request for information relating to electroconvulsive therapy, serious incidents, restraints, seclusion and medication errors. The Trust refused to comply with the requests as it said it would exceed the cost limit under section 12 FOIA to do so. The Commissioner's decision is that the Trust was correct to apply section 12 FOIA and that it was not therefore obliged to comply with the requests. The Commissioner also considers that the Trust provided the complainant with advice and assistance in accordance with its obligations under section 16 FOIA. The Commissioner requires no steps to be taken. Information Tribunal appeal EA/2020/0290 under appeal.

FOI 12: **Complaint not upheld**

Mersey Care NHS Trust

8 Oct 2020, Health

The complainant has made a 110 part request for information relating to electroconvulsive therapy, serious incidents, restraints, seclusion and medication errors. The Trust refused to comply with the requests as it said it would exceed the cost limit under section 12 FOIA to do so. The Commissioner's decision is that the Trust was correct to apply section 12 FOIA and that it was not therefore obliged to comply with the requests. The Commissioner also considers that the Trust provided the complainant with advice and assistance in accordance with its obligations under section 16 FOIA. The Commissioner requires no steps to be taken. Information Tribunal appeal EA/2020/0289 under appeal.

FOI 12: **Complaint not upheld**

Decision notice IC-39228-H4Q6

PDF (1k)

Avon and Wiltshire Mental Health Partnership NHS Trust
8 Oct 2020, Health

The complainant has made a 110 part request for information relating to electroconvulsive therapy, serious incidents, restraints, seclusion and medication errors. The Trust refused to comply with the requests as it said it would exceed the cost limit under section 12 FOIA to do so. The Commissioner's decision is that the Trust was correct to apply section 12 FOIA and that it was not therefore obliged to comply with the requests. The Commissioner also considers that the Trust provided the complainant with advice and assistance in accordance with its obligations under section 16 FOIA. The Commissioner requires no steps to be taken. Information Tribunal appeal EA/2020/0288 under appeal.

FOI 12: [Complaint not upheld](#)

[Decision notice IC-40759-P5J0](#)

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