



East Riding of Yorkshire
Clinical Commissioning Group



Freedom of Information (FOI) Quarterly Report

NHS East Riding of Yorkshire Clinical
Commissioning Group (CCG)

Quarter Three 2018/19 report covering the period
from October to December 2018.

Freedom of Information Manager



INTRODUCTION

This paper provides an update on the current position of requests made to NHS East Riding of Yorkshire Clinical Commissioning Group (CCG) under the Freedom of Information Act 2000 (FOIA) from 1 October to 31 December 2018 and a comparison against quarter three in 2017/18.

Volume of Requests – Timeliness of Responses

	Quarter 3 2017/18	Quarter 1 2018/19	Quarter 2 2018/19	Quarter 3 2018/19	Year to Date Comparison	
Requests Received	Oct – Dec 2017*	Apr – Jun 2018	Jul – Sep 2018	Oct – Dec 2018	2017/18*	2018/19
Total number of FOI requests received:	72	65	80	50	205	195
Total Number of FOIs Processed	71	65	80	50	202	195
Requests processed within 20 working days	71	65	80	50	202	195
Requests processed outside 20 working days	0	0	0	0	0	0
Percentage processed FOIs Completed within 20 working days	100%	100%	100%	100%	100%	100%
Average time taken to process (days)	15	15	15	15	15	15

* Please refer to 2017/18 quarterly reports for further detail.

Quarter three 2018/19 has seen an decrease of 37.5% in the number of FOIA requests received on the number of requests received in quarter two 2018/19 and the average number of days to process the requests has remained the same. Against the same period in 2017/18 there has been a 30.6% decrease in the number of requests received and the average number of days to process requests remained unchanged. All requests processed in quarter three have been completed within the statutory 20 working day deadline. Year to date against the previous financial year however, there has only been a 4.88% decrease in the number of requests received and the average number of days taken to process them has remained the same.

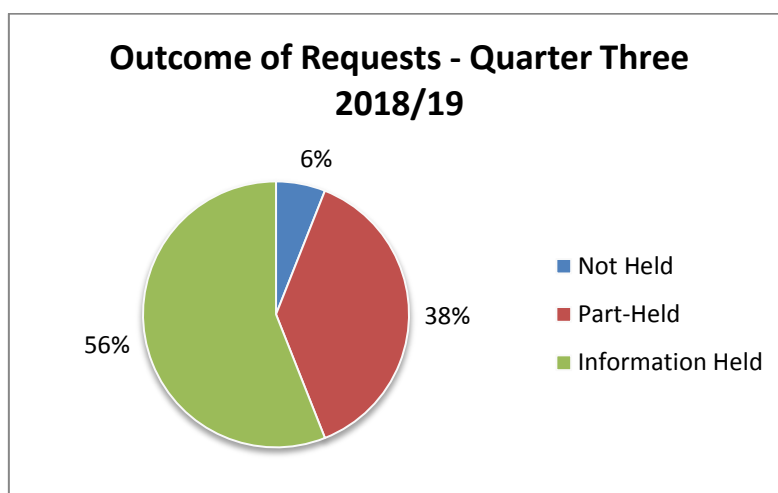
Subject Area of Request

The CCG receives a variety of requests and in some cases requests with multiple questions for a variety of information types. However, one of the predominant subject areas this quarter has been Mental Health commissioning. In addition, Out of Hours and Complex Care Packages have also been popular topics for FOIA requests. Please see Appendix One for a full illustration of the various topics.

Outcome of Requests

Of the 50 requests processed, 6% (3) sought information that was 'not held' by the CCG. Information was disclosed in full for 38% (19) of the requests. For the remaining 56% (28) of requests the information was either withheld or only partially disclosed, either because only part of the information was held and/or because an exemption was applied. Exemptions were applied to 44% (22) of all requests processed.

The chart below shows the proportion of all requests where information was not held, partially held or fully held by the CCG:



The following table illustrates the number of instances information was not disclosed and the reason for refusal. As shown in the table, the most commonly applied exemption was Section 21, which demonstrates the CCG is able to redirect requesters to information which is already accessible to the applicant.

Exemption/Reason for Refusal	Number of instances applied
Section 12 – Cost of compliance	3
Section 14 – Repeat request	2
Section 21 - Accessible by other means	13
Section 40 - Data protection	5
Total	23

The CCG has a duty to provide advice and assistance (Section 16) 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 and/or does hold the information requested. The table below shows which organisation(s) were highlighted as sources of information and on how many occasions during the quarter:

NHS- Acute	NHS- Mental Health	NHS Other	NHSE	GPs	Local Authority	NHS Prescription Services	NHS Digital	Other	Private
4	3	2	3	1	-	-	1	1	-

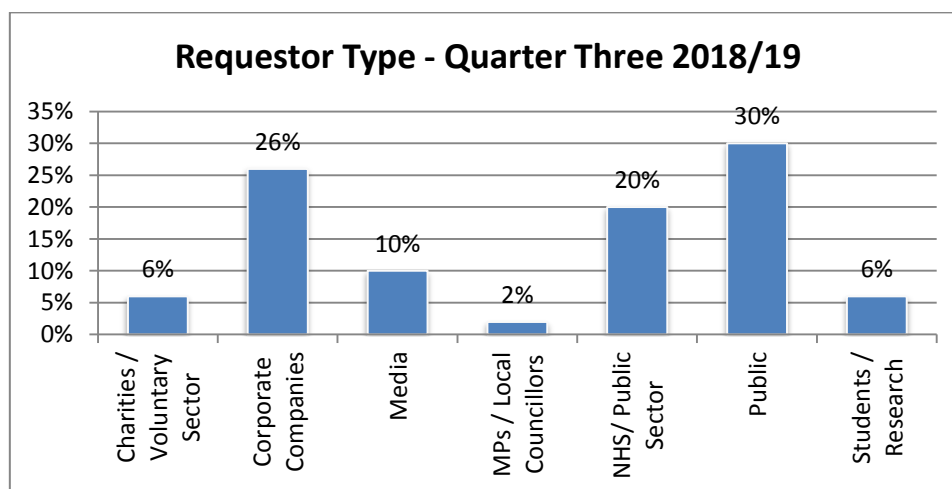
Category of Requester

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. Please note, a new category, ‘students / research’, has been added for 2018/19.

As shown in the table and chart below the two main types of requester appear to be members of the public and corporate companies.

Summary of Requesters*	Quarter 3 2017/18 Oct – Dec 2017	Quarter 1 2018/19 Apr – Jun 2018	Quarter 2 2018/19 Jul – Sep 2018	Quarter 3 2018/19 Oct – Dec 2018
Charities, Voluntary Sector / Campaign Groups	2	4	4	3
Corporate Companies	28	18	24	13
Individual members of the public	24	24	23	15
Media (local and national)	10	10	13	5
Members of Parliament / Local Councillors	3	2	5	1
NHS/ Public Sector Organisations	4	4	5	10
Students / Research	-	3	6	3
Total	71	65	80	50

*Figures based on completed requests.



Missed Requests – Internal Reviews

There were no missed requests (original request not received) and no internal review requests between 1 October and 31 December 2018.

Records Management

Further to the quarter two report, 2013/14 and 2014/15 records have been reviewed for destruction. There was one internal review during 2013/14 for which records will be retained in line with the records management policy, all other records have been destroyed as agreed by Audit and Integrated Governance Committee (AIGC) on 10 January 2019.

During 2014/15 there were zero internal reviews, as agreed at AIGC on 10 January 2019, approval has been sought from the SIRO and these records have also been destroyed.

Code of Practice

The government's Section 45 Code of Practice provides guidance to public authorities on the discharge of their functions and responsibilities under Part I of the FOIA. This guidance advises that Public authorities with over 100 Full Time Equivalent (FTE) employees should, as a matter of best practice, publish details (compliance statistics) of their performance on handling requests for information under the Act on a quarterly basis, in line with central government.

Therefore, with approval from the SIRO/Chief Finance Officer, the CCG website has been updated and the 2018/19 quarter one and quarter two reports have been published and are available at the following link: <http://www.eastridingofyorkshireccg.nhs.uk/publication-scheme/what-are-our-priorities-and-how-are-we-doing/>

Approval from SIRO/Chief Finance Officer will be sought for the publication of subsequent quarterly reports to enable the FOI team to publish the latest report in a timely manner. Unfortunately, due to the varied timings of CCG AIGC this may be before the report has been presented to the committee.

Training

An FOI Bitesize session was arranged and delivered by the FOI Manager in January 2019. In total there were 18 attendees, the session was well received and the feedback from this session was very positive. Please see attached (ERY CCG - Q3 Report - Attachment 1) for a summary of the feedback.

The comments from the session feedback suggested that the session was well delivered, very information yet light, fun and interactive, provided an overview of FOI and how it links with departments as well as covering the complexity of FOI. The inclusion of examples was considered useful and made the subject more interesting. Other recommendations from the

feedback will be incorporated into future sessions. As always the FOI Team is open to discuss any problems and to provide further general or more specific training.

Customer Feedback

Whilst the FOI Team issues a survey link for the collection of feedback with every FOI response, there have been no returns completed from requestors during quarter three.

Decision Notices - Information Commissioners Office (ICO) and News

Appendix Two shows the ICO's health related Decision Notices for the quarter. Many of the decision notices cited in Appendix Two state that the Information Commissioner found authorities had breached section 10(1) of the FOIA as they failed to provide valid responses within the statutory time frame of 20 working days.

There were two decision notices during this period that may be of interest. A local one in relation to Northern Lincolnshire and Goole NHS Foundation Trust (NLAG) where the complainant requested information relating to a review of waiting list times at the Trust. The Commissioner's decision was that NLAG (the Trust) correctly applied section 36(2)(c) - prejudice to the effective conduct of public affairs, but that the public interest favoured disclosure. The Commissioner also found that other exemptions were not engaged and/or correctly applied. The Commissioner therefore requires the public authority to take further steps to ensure compliance with the legislation, which is to disclose pages 1 – 13 of the requested information aside from names and job titles within 35 calendar days of the date of the 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.

The second one was in relation to a request about car park income at Cambridge University Hospitals NHS Foundation Trust. The Trust provided some information but withheld some ground rental income information under the section 43(2) (commercial interests) exemption. The Commissioner was not convinced that disclosure of the *'older figures would be of use to a competitor in February 2018 (the time of the request) when negotiating for 2018 and beyond. These figures were 3 and 4 years old at the time of the request and were unlikely to be a key negotiating factor when the contracts (or similar contracts) were re-tendered'*. Therefore, the Commissioner found that the section 43(2) exemption had not been successfully applied to these figures and should be disclosed.

During quarter three there was news of a council which plans to change its FOI system by charging requesters for some data already available on its website, should somebody request information that is already published in another format. The Council claimed that *'an average 15-hour query costs the taxpayer over £450, and annually more than 60,000 hours of officers' time is spent on requests'*. An Information Commissioner's Office spokesperson said: *"If we receive any complaints regarding the way Kent County Council handle their FOIA requests we will consider each one based on the individual facts."*

The ICO has launched its proposed [Freedom of Information strategy](#) for the next three years, and is inviting comment on the draft document by the 8 March 2019. The regulator says it continues to promote the reform of access to information legislation so that it remains fit for purpose and has called for the FOIA to be expanded to include organisations providing a public function in a report called [Outsourcing Oversight?](#) which has been presented to the Government.

In short, the ICO concludes that the public sector is evolving and continues to outsource services but the laws do not provide 'effective transparency and accountability in the context of modern public services'. Therefore, there is a case for 'designating contractors and a greater number of other organisations that exercise functions of a public nature' to allow the public to access more information about how those functions are fulfilled.

There is also 'too much uncertainty about contractual terms and the extent to which information held by contractors is held on behalf of public authorities'. As such, the ICO's report identifies several solutions that can make a 'difference to the accessibility of information held by organisations other than public authorities exercising functions of a public nature'. Their recommendations for government consideration are divided into two categories;

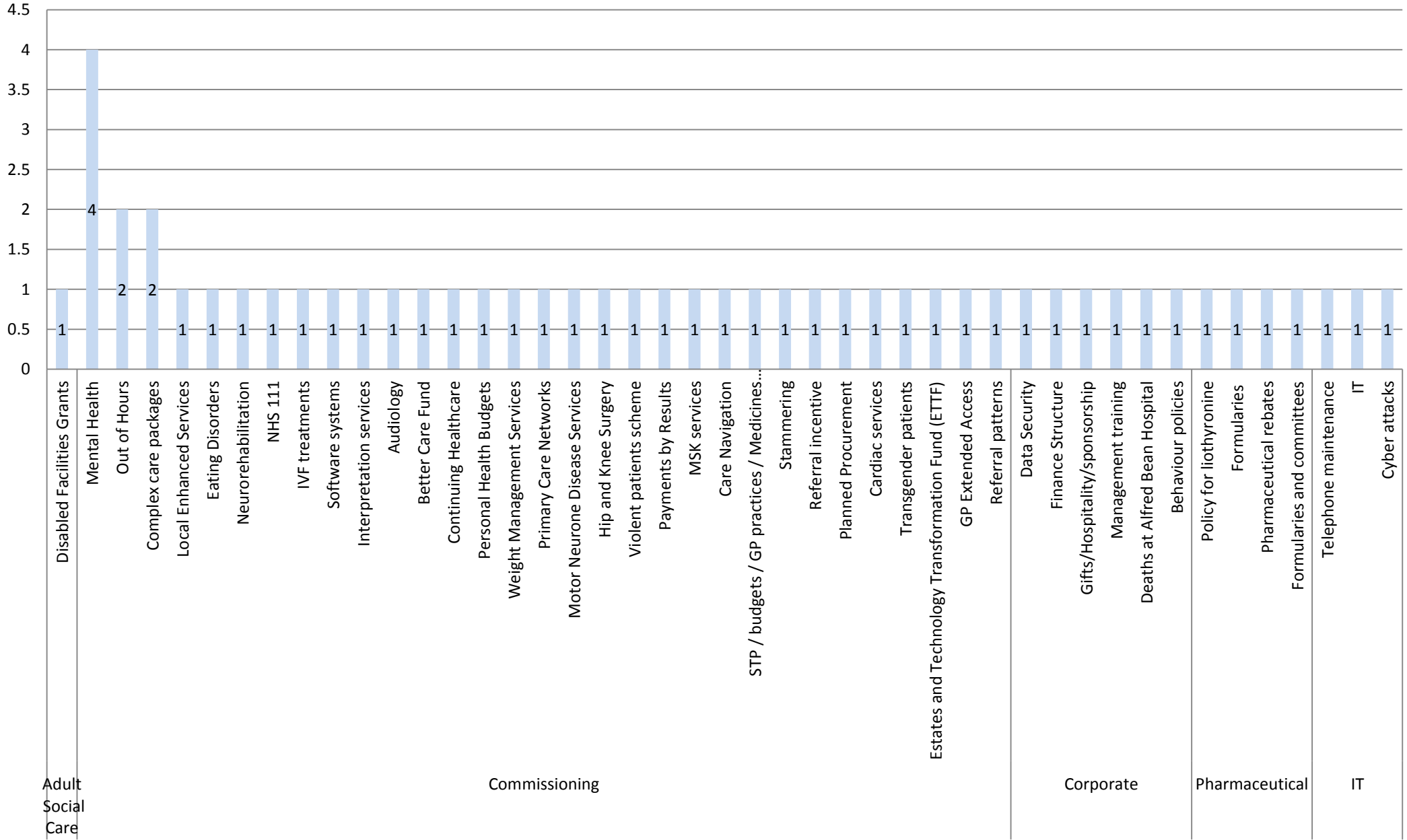
1. making greater use of existing powers under section 5 of FOIA (secondary legislation) and,
2. legislative reform of FOIA and the EIR (primary legislation).

In addition the ICO suggests the government reviews all proactive disclosure provisions regarding contracting that affect the public sector, which would include a review of the FOIA publication scheme provisions.

Freedom of Information Manager

Appendix One

Request Category by Subject Area



Appendix Two

DECISION NOTICES Health Related (37 in total) 1 October – 31 December 2018

[NHS England](#)

21 Dec 2018, Health

The complainant requested information from NHS England about travel expenses incurred in the financial year 2017/2018 including how many trips were paid for, total cost of trips, most expensive trip, specifically what class of travel and destinations/departure points. The Commissioner's decision is that NHS England has breached section 10 (1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days. The Commissioner requires NHS England to respond to the complainant's request in accordance with the FOIA.

FOI 10: Complaint upheld

[Decision notice FS50804737](#)

[NHS Oldham Clinical Commissioning Group](#)

20 Dec 2018, Health

The complainant requested information relating to prescriptions for Sativex (nabiximols). NHS Oldham Clinical Commissioning Group (the CCG) failed to respond to this request within the statutory time for compliance. The Commissioner considers that the CCG has breached section 10(1) FOIA in the handling of this request. The Commissioner requires no steps to be taken.

FOI 10: Complaint upheld

[Decision notice FS50801792](#)

[North Ridge Medical Practice](#)

20 Dec 2018, Health

The complainant has requested information relating to support for patients affected by racial abuse. The Commissioner's decision is that the GPs named above (referred to hereafter as "the Practice") failed to discharge their duty under Section 1(1)(a) to confirm or deny holding information within the scope of elements [2] to [5] of the request. However, the Practice has disclosed, to the complainant, all the information it holds in recorded form. The Commissioner does not require any further steps to be taken.

FOI 1: Complaint partly upheld

[Decision notice FS50768074](#)

[Care Quality Commission](#)

14 Dec 2018, Health

The complainant has requested information from Care Quality Commission (CQC) about minutes of meetings from the CQC Expert by Experience Programme Board. The Commissioner's decision is that the CQC has breached section 10 (1) of the FOIA in that it failed to provide a valid response to the request within the statutory

time frame of 20 working days. The Commissioner requires the CQC to respond to the complainant's request in accordance with the FOIA.

FOI 10: Complaint upheld

[Decision notice FS50803475](#)

[NHS England](#)

14 Dec 2018, Health

The complainant has requested information in relation to payments made by NHS NEL Commissioning Support Unit and also various information about contractors. The Commissioner's decision is that NHS England has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days. The Commissioner requires NHS England to issue a substantive response to the request in accordance with its obligations under the FOIA.

FOI 10(1): Complaint upheld

[Decision notice FS50802985](#)

[NHS England](#)

14 Dec 2018, Health

The complainant has requested declaration of interest and interest register forms in relation to various individuals at NHS NEL Commissioning Support Unit. The Commissioner's decision is that NHS England has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days. The Commissioner requires NHS England to issue a substantive response to the request in accordance with its obligations under the FOIA.

FOI 10(1): Complaint upheld

[Decision notice FS50801087](#)

[Guys and St Thomas NHS Foundation Trust](#)

11 Dec 2018, Health

The complainant has made a request for information relating to the total number of operations cancelled for non-clinical reasons. 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 FS50798008](#)

[North Middlesex University Hospital NHS Trust](#)

11 Dec 2018, Health

The complainant has made a request for information relating to the total number of operations cancelled for non-clinical reasons. The Commissioner's decision is that North Middlesex University NHS Trust (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 FS50798018](#)

[North West Ambulance Service NHS Trust](#)

10 Dec 2018, Health

The complainant has requested information from North West Ambulance Service NHS Trust ('NWAS') on particular payments, NWAS's policy on gifts and particular dates and times. NWAS said it did not hold some information, confirmed that it had made one payment and confirmed that it had previously provided the complainant with its policy on gifts. The Commissioner's decision is as follows: NWAS does not hold any further information that falls within the scope of request 1 and has complied with section 1(1) of the FOIA. The Commissioner does not require NWAS to take any steps to ensure compliance with the legislation.

FOI 1: Complaint not upheld

[Decision notice FS50725020](#)

[Cambridge University Hospitals NHS Foundation Trust](#)

10 Dec 2018, Health

The complainant made a freedom of information request to Addenbrooke's Hospital, part of the Cambridge University Hospitals NHS Foundation Trust (the Trust) for information about car park income. The Trust provided some information but withheld the ground rental income for 2 car parks under the section 43(2) (commercial interests) exemption. The Commissioner's decision is that the Trust has incorrectly applied Section 43(2) of the FOIA to the withheld information. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation: Disclose the ground rental income for the 2 car parks from 2014/2015, 2015/2016 and 2016/2017.

FOI 43: Complaint partly upheld

[Decision notice FS50740693](#)

[University Hospitals Plymouth NHS Trust](#)

4 Dec 2018, Health

The complainant has requested information relating to a number of University Hospitals Plymouth NHS Trust (previously known as Plymouth Hospitals NHS Trust) (the Trust) reports from 2017. The Commissioner's decision is that the Trust is entitled to rely section 14(1) of the FOIA in response to the request. However, the Commissioner also finds that the Trust breached section 10 (time for compliance) of the FOIA by not providing the information requested at part 2, within 20 working days. As the information has now been provided the Commissioner does not require the public authority to take any steps.

FOI 14: Complaint not upheld

[Decision notice FS50731513](#)

[University College London Hospital NHS Foundation Trust](#)

3 Dec 2018, Health

The complainant has requested information relating to the number of transgender patients treated by a particular professor since 2009. The trust responded to the first element of the request, although this was late and incomplete. To the date of this notice the trust has not responded to the second element. The Commissioner's decision is that trust has breached section 10 of the FOIA in this case. She therefore requires the trust to respond to the second element of the request in accordance with the FOIA.

FOI 10: Complaint upheld

[Decision notice FS50790875](#)

[Barts Health NHS Trust](#)

3 Dec 2018, Health

The complainant has requested information relating to the number of cancelled operations. Barts Health NHS Trust (the Trust) failed to respond to this request for information and the Commissioner's decision is that in doing so the Trust breached section 10(1) of the FOIA. The Commissioner requires the public authority to provide the complainant with a response to this request in accordance with its obligations under FOIA. The public authority 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 FS50797967](#)

[Norfolk and Norwich University Hospitals NHS Foundation Trust](#)

3 Dec 2018, Health

The complainant has requested information relating to the number of cancelled operations. Norfolk and Norwich University Hospitals NHS Foundation Trust (the Trust) failed to respond to this request for information and the Commissioner's decision is that in doing so the Trust breached section 10(1) of the FOIA. The Commissioner requires the public authority to provide the complainant with a response to this request in accordance with its obligations under FOIA. The public authority 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 FS50797982](#)

[Cardiff and Vale NHS Trust](#)

29 Nov 2018, Health

The complainant requested information about complaints received by Cardiff and Vale University Health Board ('the Health Board'). The Health Board provided information in relation to one part of the request and applied section 12(1) to the other parts of the request, as compliance would exceed the appropriate limit. The

Commissioner's decision is that the Health Board has correctly applied section 12(1) to the request. She does not require any steps to be taken.

FOI 12: Complaint not upheld

[Decision notice FS50752708](#)

[NHS England](#)

26 Nov 2018, Health

Through 14 requests the complainant has requested ICT-related financial and contract information from NHS England (NHSE). At the date of this notice NHSE has not provided a response to the requests. The Commissioner's decision is as follows: NHSE has breached section 10(1) of the FOIA as it has not provided a response to the requests within 20 working days. The Commissioner requires NHSE to take the following step to ensure compliance with the legislation: Provide a response to the complainant's requests that complies with the FOIA.

FOI 10: Complaint not upheld

[Decision notice FS50792336](#)

[Barnsley Hospital NHS Foundation Trust](#)

21 Nov 2018, Health

The complainant has requested information from Barnsley Hospital NHS Foundation Trust about the total number of operations cancelled for non-clinical reasons, and broken down by the cause of the cancellation. The Commissioner's decision is that Trust has breached section 10 (1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days. The Commissioner requires the Council to respond to the complainant's request in accordance with the FOIA.

FOI 10: Complaint upheld

[Decision notice FS50795547](#)

[Boots Group Plc](#)

21 Nov 2018, Health

The complainant – on behalf of the BBC - has requested information from Boots Group Plc ('Boots') about time standards associated with its dispensing services, and how Boots calculates community pharmacy staffing needs and associated costs. Boots advised that the requested information is exempt from release under section 43(1) (trade secrets) and section 43(2) (commercial interests) of the FOIA. The Commissioner's decision is as follows: The disputed information is exempt information under section 43(2) of the FOIA and the public interest favours maintaining the exemption. The Commissioner does not require Boots to take any steps to ensure compliance with the legislation.

FOI 43: Complaint not upheld

[Decision notice FS50724790](#)

[University Hospitals Plymouth NHS Trust](#)

21 Nov 2018, Health

Through a series of requests, the complainant has requested information from University Hospitals Plymouth NHS Trust ('the Trust') that is broadly associated with

the circumstances under which his mother died. The Trust provided information relevant to some of the requests. It provided links to some relevant published information and said it did not hold other information. The Trust relied on section 12(1) with regard to two requests (cost exceeds appropriate limit) and indicated that information within the scope of another request was intended for future publication. With regard to the majority of the requests, the Trust relied on section 40(5) and 41(2) to neither confirm nor deny it holds relevant information as to do so would either release the personal data of a third party or constitute an actionable breach of confidence. The Commissioner's decision is as follows: On the balance of probabilities, the Trust does not hold the information requested in request 2 and complied with section 1(1)(a) with regards to this request. The Trust breached sections 1(1) and 10(1) with regard to request 3 as it holds information relevant to this request that it did not communicate to the complainant within the appropriate timescale. The Trust breached section 17(5) with regard to requests 4d) and 11. It incorrectly relied on section 12(1) to refuse to comply with these two requests but the Commissioner finds that, on the balance of probabilities, the Trust does not hold the information requested through these two requests. The information requested in requests 1, 5, 6, 7, 8, 9 and 10 does not engage the exemption under section 40(5B)(a)(i) of the FOIA but the Trust is not obliged to confirm or deny it holds this information under section 41(2). The Trust is not obliged to confirm or deny it holds the information requested in requests 12, 13, 14, 15 and 16 under section 40(5B)(a)(i). The Commissioner requires the Trust to take the following step to ensure compliance with the legislation: If it has not already done so, release the 'Ward Handover of Care and Internal Transfer of Adults (Excluding Maternity) Standard Operating Procedure' document to the complainant.
FOI 17: Complaint upheld FOI 10: Complaint upheld FOI 40: Complaint not upheld
FOI 41: Complaint not upheld FOI 1: Complaint partly upheld

[Decision notice FS50748820](#)

[General Medical Council](#)

19 Nov 2018, Health

The complainant has requested information relating to 2012 GMC Quality Assurance of Basic Medical Education (QABME) Report and 2014 and 2015 Annual Returns for Warwick Medical School. The GMC refused to comply with the request under section 12 FOIA. The Commissioner's decision is that the GMC was correct to apply section 12 FOIA and that it was not therefore obliged to comply with the request. The Commissioner also considers that the GMC provided the complainant with appropriate 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

[Decision notice FS50722102](#)

[NHS England](#)

9 Nov 2018, Health

The complainant made a freedom of information request to NHS England for the minutes of a meeting concerning his deceased partner's treatment and other related matters. He received no response. When contacted by the Commissioner to ask why

there had been no response, the public authority initially informed her that it had not received the request the Commissioner had attached. At a later date NHS England explained that it had in fact received a request on that day. NHS England explained that it had made clear in a previous response to the complainant when it had applied section 14(1) that it would not respond to further similar requests. Therefore, it did not consider itself obliged to respond when it received such requests and would not do so. The Commissioner's decision is that the Trust correctly applied section 14(1) to refuse the complainant's request and she requires no steps to be taken. She has also decided that NHS England was not obliged to issue a refusal notice in respect of the request, in accordance with section 17(6) (refusal of request) of the FOIA.

FOI 14: Complaint not upheld

[Decision notice FS50737394](#)

[Norfolk and Norwich Hospitals NHS Foundation Trust](#)

8 Nov 2018, Health

The complainant requested information relating to volunteers for Norfolk and Norwich Hospitals NHS Foundation Trust (the Trust). The Trust has failed to respond to this request. The Commissioner considers that the Trust has breached section 10(1) FOIA in the handling of this request. The Commissioner requires the public authority to provide the complainant with a response to this request in accordance with its obligations under FOIA.

FOI 10: Complaint upheld

[Decision notice FS50791236](#)

[Great Ormond Street Hospital for Children NHS](#)

7 Nov 2018, Health

The complainant has requested information from the public authority on various issues involving the gastroenterology department, including information on discussions about reviews and outcomes of reviews. The Trust initially refused the request on the basis of section 14 and later stated it was seeking to rely on section 12 as complying with the request would exceed the cost limit. The Commissioner's decision is that the Trust applied section 14(1) and 12(1) incorrectly as it did not demonstrate that the cost of the request would exceed the limit or that the burden of responding would outweigh any serious value the request had. The Commissioner finds that the Trust did comply with section 16(1) by providing advice and assistance but that this was not necessary as section 12 had been incorrectly applied. The Commissioner requires the public authority to write to the complainant with a fresh response to the request that does not rely on either section 12(1) or 14(1) of the FOIA.

FOI 16: Complaint not upheld FOI 14: Complaint upheld FOI 12: Complaint upheld

[Decision notice FS50749059](#)

[South West Lincolnshire Clinical Commissioning Group](#)

5 Nov 2018, Health

The complainant has requested the email addresses of the Board of Governors of South West Lincolnshire Clinical Commissioning Group ('CCG'). The CCG has withheld this 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 CCG is correct to withhold the requested information under section 40(2) of the FOIA.

FOI 40: Complaint not upheld

[Decision notice FS50742123](#)

[Merton Clinical Commissioning Group](#)

2 Nov 2018, Health

The complainant has requested information in respect of proposals for the Wilson Health and Wellbeing Campus. The Commissioner's decision is that the Merton Clinical Commissioning Group (the CCG) has breached section 1(1) and 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days. The Commissioner requires the CCG to issue a substantive response to the request in accordance with its obligations under the FOIA.

FOI 10: Complaint upheld FOI 1: Complaint upheld

[Decision notice FS50790308](#)

[NHS Improvement](#)

30 Oct 2018, Health

The complainant has requested information relating to a review of the gastroenterology department at Great Ormond Street Hospital (GOSH). The Commissioner's decision is that NHS Improvement (NHSI) has correctly applied section 42(1) and section 41 to the withheld information. The Commissioner does not require the public authority to take any steps.

FOI 42: Complaint not upheld FOI 41: Complaint not upheld

[Decision notice FS50734705](#)

[North West London Clinical Commissioning Groups](#)

30 Oct 2018, Health

The complainant has requested information relating to the CCGs 'Shaping a Healthier Future' plans particularly in relation to Ealing Hospital. North West London CCGs (the CCGs) refused to provide the requested information requested under section 36(2)(b)(ii) and section 36(2)(c) FOIA. The Commissioner's decision is that the CCGs incorrectly applied section 36(2)(b)(ii) and section 36(2)(c) FOIA to the withheld information. The Commissioner requires the public authority to disclose the withheld draft report.

FOI 36: Complaint upheld

[Decision notice FS50716937](#)

[West Midlands Ambulance Service](#)

26 Oct 2018, Health

The complainant has requested information concerning ambulance journeys taken by the complainant and her mother and a particular report concerning the complainant's mother. West Midlands Ambulance Service NHS Foundation Trust ('WMAS') withheld the requested information under section 40(2) of the FOIA as it considered it to be the personal data of third persons. The Commissioner's decision is as follows: WMAS cannot rely on the provisions under section 40 of the FOIA to

withhold the requested information, if held, or to neither confirm nor deny the information is held. This is because the information cannot be categorised as personal data. However, WMAS can rely on section 41(2) to neither confirm nor deny the information is held. This is because confirmation or denial would constitute an actionable breach of confidence. This decision notice is currently under appeal to the Tribunal.

FOI 40: Complaint upheld FOI 41: Complaint not upheld

[Decision notice FS50731558](#)

[North Lincs & Goole NHS Trust](#)

25 Oct 2018, Health

The complainant has requested information relating to a review of waiting list times at the Trust. The Commissioner's decision is that North Lincolnshire and Goole NHS Trust (the Trust) has correctly applied section 36(2)(c) - prejudice to the effective conduct of public affairs, but that the public interest favours disclosure. She further finds that section 31(1)(g) – law enforcement, is not engaged. The complainant has accepted that section 40(2) – personal data, could apply to personal information of patients and staff below board level. However, the Commissioner finds that the Trust has incorrectly applied section 40(2) to the majority of the information in the main body of the report. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation. Disclose pages 1 – 13 of the requested information aside from names and job titles. The public authority 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 31: Complaint upheld FOI 40: Complaint partly upheld FOI 36: Complaint upheld

[Decision notice FS50729904](#)

[Public Health England](#)

24 Oct 2018, Health

In 12 requests, the complainant has requested information associated with the role of Public Health England (PHE) in the response to the Ebola crisis in 2014-2015. PHE indicated to the complainant that it did not hold most of the requested information and that the information it did hold is exempt from release under section 24(1) of the FOIA (national security) or section 40(2) (third person personal data). The Commissioner's decision is as follows: PHE breached section 1(1)(a) with regard to the majority of the parts of requests 9, and requests 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20. PHE complied with section 1(1)(a) with regard to one part of request 9. PHE breached section 1(1)(b) with regard to four parts of request 9 and requests 12 and 15. PHE has complied with section 1(1)(b) with regard to request 14. PHE breached section 10(1) with regard to: four parts of request 9 and requests 10, 11, 12, 13, 14, 15, 16, 17, 18 and 20. PHE complied with section 10(1) with regard to one part of request 9. PHE breached section 17(1) and section 17(3) with regard to the majority of the elements of request 9, request 14 and request 19. PHE cannot rely on section 24(1) with regards to the majority of the parts of request 9. PHE can rely on section 24(1) with regards to request 9.3, 9.5, 9.7, request 14 and

request 19 and the public interest favours maintaining the exemption. PHE cannot rely on section 40(2) to withhold any of the remaining information requested in request 9. PHE can rely on section 40(2) to withhold the personal data of third persons with regard to request 14 and request 19. The Commissioner requires PHE to take the following steps to ensure compliance with the legislation: Release to the complainant the information it holds that is relevant to request 12.1. If it has not already done so as a result of FS50713226, release the information it holds that falls within the scope of request 12.2 (the Memorandum of Understanding and Material Transfer Agreement with personal data redacted as appropriate). If it has not already done so, provide the complainant with the two documents within the scope of request 14, namely – ‘Receipt and transport of clinical samples’ and ‘Transport and storage of material in laboratory’ – that have been redacted in line with the versions it subsequently provided to the Commissioner on 19 October 2018. If it has not already done so as a result of FS50713226, release the information it holds that is relevant to request 15.1 (number of samples) and request 15.2 ...

FOI 17: Complaint upheld FOI 10: Complaint partly upheld FOI 40: Complaint partly upheld FOI 24: Complaint partly upheld FOI 1: Complaint partly upheld

[Decision notice FS50715751](#)

[NHS Nene Clinical Commissioning Group](#)

19 Oct 2018, Health

The complainant requested the GMC registration number of a doctor within NHS NENE Clinical Commissioning Group (the CCG). The Commissioner’s decision is that the CCG failed to respond to the request within 20 working days and therefore breached Section 1 and 10 of the FOIA. As a response has now been issued, the Commissioner does not require any further steps to be taken.

FOI 10: Complaint upheld FOI 1: Complaint upheld

[Decision notice FS50789858](#)

[NHS Clinical Commissioning Board \(NHS England\)](#)

16 Oct 2018, Health

The complainant has requested the patient access schemes/ commercial access agreements for two specified drugs. NHS England withheld the requested information under section 43(2) FOIA. The Commissioner considers that NHS England has correctly applied section 43(2) FOIA to the withheld information. The Commissioner requires no steps to be taken.

FOI 43: Complaint not upheld

[Decision notice FS50727141](#)

[South Warwickshire Clinical Commissioning Group](#)

11 Oct 2018, Health

In two requests, the complainant has requested information concerning NHS Continuing Healthcare. South Warwickshire Clinical Commissioning Group (CCG) categorised both requests as vexatious under section 14(1) of the FOIA. During the course of the Commissioner’s investigation the CCG withdrew its reliance on section 14(1) in respect of request 2. The Commissioner’s decision is as follows: Request 1 of 2 January 2018 cannot be categorised as vexatious under section 14(1) of the

FOIA and the CCG is obliged to comply with it. The CCG breached section 10(1) with regard to request 2 of 2 January 2018 as it has not released the requested information to the complainant within 20 working days. The Commissioner requires the CCG to take the following steps to ensure compliance with the legislation: Issue the complainant with a response to request 1 that does not rely on section 14(1). If it has not already done so, release to the complainant the information he requested in request 2.

FOI 10: Complaint upheld FOI 14: Complaint upheld

[Decision notice FS50731646](#)

[Northumbria Healthcare NHS Foundation Trust](#)

9 Oct 2018, Health

The complainant has requested information about financial transactions over £25,000. The Northumbria Healthcare NHS Foundation Trust (the Trust) says it is not obliged to comply with the request under section 12(1) of the FOIA, as it would exceed the appropriate cost and time limit to do so. The Commissioner's decision is that the Trust is not obliged to comply with the request under section 12(1).

However, she finds the Trust breached section 16 (duty to provide advice and assistance) of the FOIA. No steps are required as a result of this decision.

FOI 12: Complaint not upheld FOI 16: Complaint upheld

[Decision notice FS50745274](#)

[NHS Digital](#)

3 Oct 2018, Health

The complainant has requested information on various types of treatments used on those detained in mental health settings. NHS Digital initially refused the request on the basis of section 21, later amending its position to rely on section 12 as complying with the request would exceed the cost limit. The Commissioner's decision is that NHS Digital applied section 12(1) incorrectly as it did not reasonably demonstrate that the cost of the request would exceed the limit. She also finds that in failing to advise the complainant on how to refine his request to bring it within the cost limit, NHS Digital breached section 16(1) of the FOIA. The Commissioner requires the public authority to write to the complainant with a fresh response to the request that does not rely on section 12(1) of the FOIA.

FOI 12: Complaint upheld FOI 16: Complaint upheld

[Decision notice FS50723337](#)