



North East Lincolnshire
Clinical Commissioning Group



Freedom of Information (FOI) Quarterly Report

NHS North East Lincolnshire Clinical
Commissioning Group (CCG)

Quarter One 2019/20 report covering the period
from April to June 2019.

Freedom of Information Delivery Manager



INTRODUCTION

This paper provides an update on the current position of requests made to NHS North East Lincolnshire Clinical Commissioning Group (CCG) under the Freedom of Information Act 2000 (FOIA) from 1 April to 30 June 2019 and a comparison against quarter one in 2018/19.

Volume of Requests – Timeliness of Responses

	<i>Quarter 1 2018/19</i>	Quarter 1 2019/20
Requests Received	Apr – Jun 2018	Apr – Jun 2019
Total number of FOI requests received:	64	67
Total Number of FOIs Processed	62*	67
Requests processed within 20 working days	62	67
Requests processed outside 20 working days	0	0
Percentage processed FOIs Completed within 20 working days	100%	100%
Average time taken to process (days)	15	17

Quarter one 2019/20 has seen a 4.7% increase in the number of requests received in the same period in 2018/19 and the average number of days to process the requests has increased by 2 days. All requests processed in quarter one were completed within the statutory 20 working day deadline.

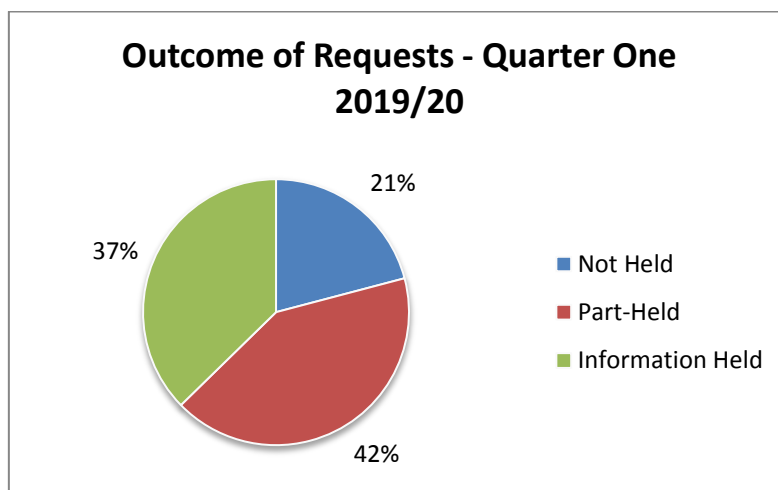
Subject Area of Request

The CCG receives a variety of requests and in some cases requests with multiple questions for a variety of information types. The predominant subject area this quarter, however, has been Primary Care Networks. Please see Appendix One for a full illustration of the various topics.

Outcome of Requests

Of the 67 requests processed, 21% (14) sought information that was 'not held' by the CCG. Information was disclosed in full for 37% (25) of the requests. For the remaining 42% (28) of the requests the information was partially disclosed, either because only part of the information was held or because an exemption was applied. Exemptions were applied to 22.3% (15) of all requests processed.

The chart below displays the proportion of requests where information was held, not held or partially 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 40, which demonstrates the CCG is protecting personal data where appropriate.

Exemption/Reason for Refusal	Number of requests applied to
Section 12 - Cost of compliance	1
Section 21 - Accessible by other means	5
Section 40 – Data Protection	9
Total	15

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	GPs	Local Authority	NHS Prescription Services	NHS Digital	NHSE	Other	Private
6	1	1	2	5	1	-	1	-	1

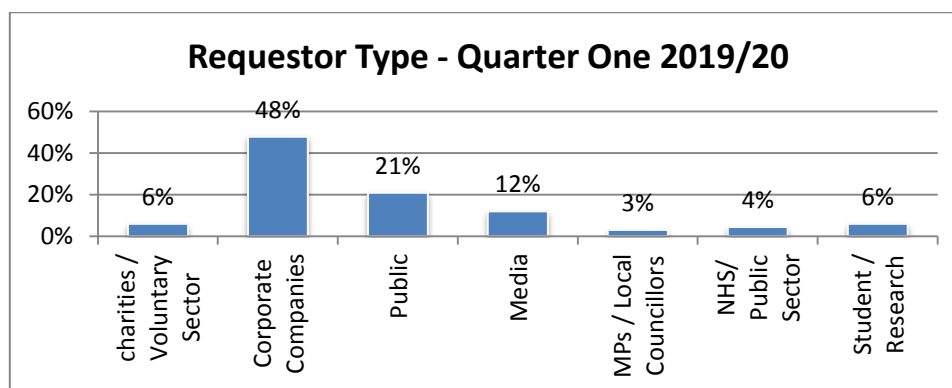
Category of Requester

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.

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

Summary of Requesters*	Quarter 1 2018/19* Apr - Jun 2018	Quarter 1 2019/20 April – June 2019
Charities, Voluntary Sector / Campaign Groups	5	4
Corporate Companies	23	32
Individual members of the public	15	14
Media (local and national)	10	8
Members of Parliament / Local Councillors	2	2
NHS/ Public Sector Organisations	4	3
Student / Research	3	4
Total	62	67

*Figures based on completed requests.



Missed Requests – Internal Reviews

There were no missed requests (original request not received) and no internal reviews between 1 April and 30 June 2019.

Customer Feedback

Whilst the FOI Team issues a survey link for the collection of feedback with every FOI response, there have been two returns from requestors during quarter one 2019/20 (NEL

CCG – Q1 – Attachment 1). Both requestors indicated that they were happy with the service provided.

During quarter one the FOI team gathered feedback from the surveys issued to all individuals and teams that have been involved in the FOI process either by supplying information to satisfy a request and/or approving responses for distribution. The attached summary (NEL CCG – Q1 Attachment 2) provides an overview of the scores from the 20 responses we received.

The feedback highlighted the following points;

- Reminders are very helpful when approaching deadlines and a reminder by way of a telephone call may be more helpful;
- Telephone calls are often more helpful in sorting out complex responses than the exchange of several emails.
- When a request needs to be passed on to another individual either because the original team is unable to assist or due to someone being on leave it is helpful if this can be identified and actioned as soon as possible in order to maximise the time available for the new person or team to respond.

Overall the feedback this year has been very positive with very complimentary comments on the team's ability to provide expert help and their responsiveness.

Decision Notices - Information Commissioners Office (ICO) and News

Appendix Two shows the ICO's health related Decision Notices for the quarter. The Decision Notices show a number of occasions where the Commissioner has considered how section 40 (personal information) should be applied. This relates to various areas including disclosure of staff details and also the use of 'Neither Confirm nor Deny' (NCND).

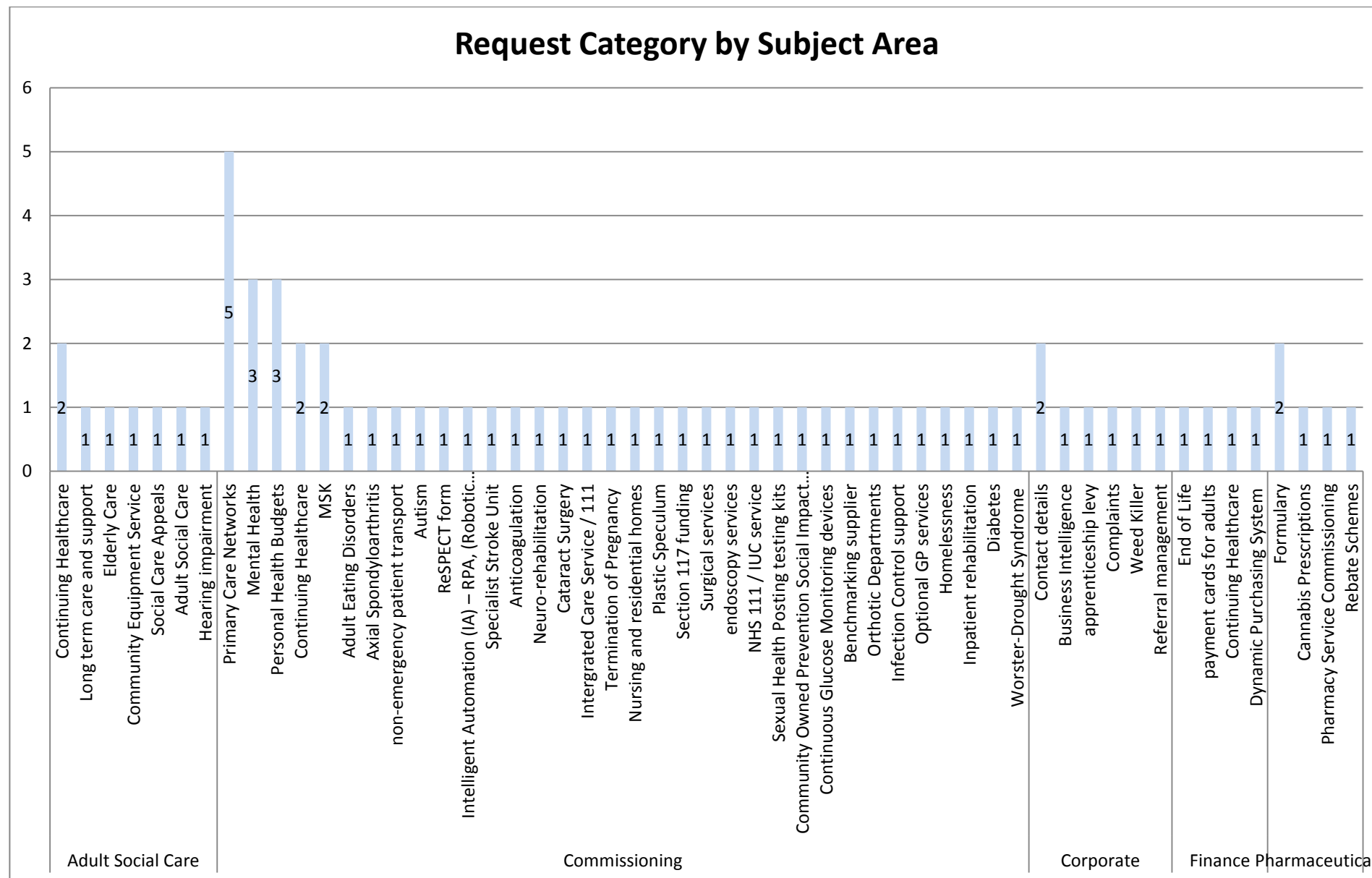
There were a number of decisions in relation to the use of section 41 (Information provided in confidence) where the Commissioner considered when information can be counted as having been received in confidence as well as the use of section 41 in respect of withholding information relating to deceased patients.

In addition there are 2 Decision Notices which relate to the use of s43 (commercial interests) where the Commissioner decided that information in respect of the operating model for GP at Hand and the fees paid to celebrities by NHS England, for Publicity or Public information campaigns, were considered to be commercially sensitive. In both cases the Commissioner decided that the balance of the public interest was in favour of the information being withheld.

Finally there is a Decision Notice for NHS Improvement which relates to a request for a temporary staffing report by NHS Improvement (NHSI) regarding North Lincolnshire and Goole NHS Foundation Trust, which may be of interest.

Freedom of Information Delivery Manager

Appendix One



Appendix Two

DECISION NOTICES Health Related (27 in total) 1 April – 30 June 2019

[Betsi Cadwaladr University Local Health Board](#)

23 Apr 2019

The complainant has requested various information in respect of patient safety incidents referred to in the National Reporting and Learning system – NHS Improvement, June 2018 publication. Betsi Cadwaladr University Health Board provided some information, but refused the remainder on the basis of section 41 FOIA as it considered it was information given in confidence. The Commissioner's decision is that Betsi Cadwaladr University Health Board was entitled to rely on section 41 to withhold the disputed information. However, in failing to provide its response within the required timescales, the Health Board breached sections 10 and 17 of the FOIA. The Commissioner does not require the public authority to take any steps.

FOI 17: **Complaint upheld** FOI 10: **Complaint upheld** FOI 41: **Complaint not upheld**

[Decision notice FS50784963](#)

[Salford Royal NHS Foundation Trust](#)

18 Apr 2019

The complainant has requested a variety of statistical information and information relating to his own care. The Commissioner's decision is that Salford Royal NHS Foundation Trust does not hold some of the information within the scope of the request. Where it does hold information, it is entitled to rely upon section 21 of FOIA in the manner it has done. The Trust is entitled to rely on section 12 to refuse some sections of the request, although it should have cited section 12(2) instead of section 12(1). The Trust is also entitled to rely on section 40(2) to withhold some of the information within scope – although the Commissioner notes that it ought, more properly, to have relied upon section 40(5) to refuse to confirm or deny holding some of the information. The Commissioner also finds that the Trust failed to identify all the information it held within the scope of the request and failed to issue a refusal notice citing all the exemptions on which it later came to rely within 20 working days. The Trust therefore breached sections 10 and 17 of the FOIA. The Commissioner does not require any further steps to be taken.

FOI 10: **Complaint upheld** FOI 21: **Complaint not upheld** FOI 40: **Complaint partly upheld** FOI 17: **Complaint upheld** FOI 1: **Complaint partly upheld** FOI 12: **Complaint partly upheld**

[Decision notice FS50757134](#)

[NHS England](#)

24 Jun 2019

The complainant requested information relating to an NHS patient survey for out of hour's dental treatment. NHS England disclosed the requested information but redacted the 'free text' boxes under section 40(2) FOIA. The Commissioner considers that NHS England incorrectly applied section 40(2) FOIA to some of the withheld information. The Commissioner requires the public authority to disclose the information identified in the Confidential Annex attached to this Notice.

FOI 40: **Complaint not upheld**

[Decision notice FS50836153](#)

NHS Clinical Commissioning Board (NHS England)

20 Jun 2019

The complainant has requested information relating to a tendering exercise undertaken to find an organisation able to develop/deliver a solution to reduce Delayed Transfer of Care. The Commissioner's decision is that NHS England has failed to respond to the complainant's information request within 20 working days of receipt and has therefore breached section 10(1) of the FOIA. Since the Commissioner considers that NHS England has now responded to the request seeking clarification, she does not require NHS England to take any further steps in relation to this complaint.

FOI 10: **Complaint upheld**

[Decision notice FS50839201](#)

Oxford University Hospitals NHS Foundation Trust

18 Jun 2019,

The complainant has requested communications relating to infected blood and blood products within a specified time period. Oxford University Hospitals NHS Foundation Trust ("the Trust") had not responded to the request at the time of this notice. The Commissioner's decision is that the Trust has failed to comply with its obligations under section 10 of the FOIA. The Commissioner requires the public authority to issue a substantive response to the request in accordance with its obligations under the FOIA.

FOI 10: **Complaint upheld**

[Decision notice FS50842721](#)

Tees, Est & Wear Valleys NHS Foundation Trust

13 Jun 2019

The complainant has requested information relating to building defects at Roseberry Park Hospital in Middlesbrough. The Commissioner's decision is that Tees, Esk and Wear Valleys NHS Foundation Trust (the Trust) has correctly applied section 36(2)(c) to the withheld information. She has further determined that public interest lies in favour of maintaining the exemption. The Commissioner does not require the Trust to take any steps.

FOI 36: **Complaint not upheld**

[Decision notice FS50772974](#)

Barnet Enfield and Haringey Mental Health NHS Trust

11 Jun 2019

Through a multi-part request, the complainant has requested copies of communications between Barnet, Enfield and Haringey Mental Health NHS Trust ('the Trust') and the Information Commissioner's Office ('ICO'). The Trust released some information and has withheld some information under section 21(1) (information already accessible to applicant), section 40(2)(third person personal data) and section 42(1) (legal professional privilege). Finally, the Trust says it

does not hold some of the requested information. The Commissioner's decision is as follows: The Trust has correctly applied section 21(1) of the FOIA to some of the information it has withheld. The Trust has correctly applied section 40(2) to some information. This information is the personal data of third persons and is exempt from release under this exemption. The Trust has correctly applied section 42(1) to some information. This information attracts legal professional privilege and the public interest favours maintaining the exemption. The Commissioner does not require the Trust to take any remedial steps.

FOI 42: **Complaint not upheld** FOI 21: **Complaint not upheld** FOI 40: **Complaint not upheld**

[Decision notice FS50805174](#)

South Eastern Health and Social Care Trust

10 Jun 2019

The complainant has requested the name of anyone making allegations about a post graduate diploma awarded by Belfast Cognitive Therapy Centre Ltd (BCTC). South Eastern Health and Social Care Trust (the Trust) refused to provide the name(s), citing the exemptions in section 41 of the FOIA - provided in confidence and section 40 - personal information. The Information Commissioner's decision is that the requested information is not exempt under section 41 but is exempt from disclosure by virtue of section 40 of the FOIA. The Commissioner does not require any steps to be taken.

FOI 40: **Complaint not upheld**

[Decision notice FS50779795](#)

NHS England

7 Jun 2019

The complainant has requested any declarations of interests NHS England received from specific individuals and companies named in the request. NHS England refused to confirm or deny whether this information is held under section 40(5)(b)(i) of the FOIA. The Commissioner's decision is that NHS England is entitled to refuse to confirm or deny whether the requested information is held in accordance with section 40(5)(b)(i) of the FOIA with the exception of the limited companies named in question 5(c) of the first set of questions and question 5(f) of the second set of questions. The Commissioner requires NHS England to disclose the information which is not exempt under section 40(5)(b)(i) of the FOIA to the complainant.

FOI 40(5): **Complaint partly upheld**

[Decision notice FS50775786](#)

Belfast Health and Social Care Trust

5 Jun 2019

The complainant has requested information from Belfast Health and Social Care Trust ("the Trust") relating to a particular care home, Muckamore Abbey Hospital, where there had been a review into the care of vulnerable adults with learning disabilities and mental health needs. The Commissioner's decision is that the Trust failed to provide a valid response to the request within the statutory time frame of 20 working days. In not doing so, the Trust breached section 10(1) of

the FOIA. As the information has now been provided, the Commissioner requires no steps to be taken.

FOI 10(1): **Complaint upheld**

[Decision notice FS50793600](#)

NHS Business Services Authority

3 Jun 2019

The complainant has requested information about how the concessionary price of the drug bicalutamide (specifically 50 mg tablets) was calculated over the six months between October 2017 and March 2018 and other information related to Category M prices. The NHSBSA stated that some of the information was not held and withheld the remainder under sections 43(2), 41(1) and 36(2)(c) of the FOIA. The Commissioner's decision is that the NHS Business Services Authority (NHSBSA) does not hold information in relation to parts two, three and four of the request and has applied section 41(1) correctly to part one. As this applies to the whole of the requested information in part one she has not gone on to consider the application of section 43(2) or section 36(2). The Commissioner does not require the NHSBSA to take any further steps

FOI 41(1): **Complaint not upheld**

[Decision notice FS50762201](#)

Care Quality Commission

30 May 2019

The complainant has requested information on notification of deaths and serious incidents in care facilities provided to the Care Quality Commission (CQC). The CQC provided some information but withheld the date it received these notification on the basis of section 41 and 40. The Commissioner's decision is that the CQC has correctly applied the provisions of section 41 to withhold the remaining information and the balance of the public interest favours maintaining the exemption. She requires no steps to be taken by the CQC.

FOI 41: **Complaint not upheld**

[Decision notice FS50803708](#)

NHS Improvement

24 May 2019

The complainant has requested a copy of a temporary staffing report by NHS Improvement (NHSI) into North Lincolnshire and Goole NHS Foundation Trust. NHSI initially refused the request on the basis of section 41, 43, 31 and 33 of the FOIA but during the investigation disclosed some information previously withheld under sections 41 and 43 but continued to withhold the remaining information under the exemptions as section 31 and 33 of the FOIA. The Commissioner's decision is that NHSI has correctly applied the provisions of section 33 to withhold the remaining information from the report and that the balance of the public interest favours maintaining the exemption. She requires no steps to be taken by NHSI.

FOI 33: **Complaint not upheld**

[Decision notice FS50791510](#)

[Medicines and Healthcare Products Regulatory Agency](#)

23 May 2019

The complainant has requested information from the Medicines and Healthcare Products Regulatory Agency (MHRA) about the importation of Co-proxamol. The MHRA disclosed the information under part 1 and 2 of the request and also some of the information under part 3 but applied section 41 (Information provided in confidence) and 43 (Commercial interest) of the FOIA to withhold the names of the licenced importers. The Commissioner's decision is that the MHRA has not sufficiently demonstrated that section 41 or 43 of the FOIA is engaged in relation to the information that has been withheld under part 3 of the request. The Commissioner requires the public authority to disclose the names of the licenced importers of Co-proxamol.

FOI 43: [Complaint upheld](#) FOI 41: [Complaint upheld](#)

[Decision notice FS50796228](#)

[Kettering General Hospital NHS Foundation Trust](#)

22 May 2019

The complainant has requested information relating to the minutes of all audit committee meetings. The Commissioner's decision is that Kettering General Hospital NHS Foundation Trust (the Trust) failed to respond to the complainant's request within 20 working days of receipt and has therefore breached section 10(1) of the FOIA. Since the Commissioner considers that the request has now been responded to, she does not require the Trust to take any further steps in relation to this complaint.

FOI 10: [Complaint upheld](#)

[Decision notice FS50826451](#)

[Kettering General Hospital NHS Foundation Trust](#)

22 May 2019

The complainant requested information relating to the log of all whistleblowing incidents kept by Kettering General Hospital NHS Foundation Trust (the Trust). The Commissioner's decision is that the Trust failed to respond to the complainant's request within 20 working days of receipt and therefore breached section 10(1) of the FOIA. Since the Commissioner considers that the request has now been responded to, she does not require the Trust to take any further steps in relation to this complaint.

FOI 10: [Complaint upheld](#)

[Decision notice FS50824576](#)

[Kettering General Hospital NHS Foundation Trust](#)

22 May 2019

The complainant has requested information relating to job descriptions and person specifications for a number of roles at Kettering General Hospital NHS Foundation Trust (the Trust). The Commissioner's decision is that the Trust failed to respond to the complainant's request within 20

working days of receipt and has therefore breached section 10(1) of the FOIA. Since the Commissioner considers that the request has now been responded to, she does not require the Trust to take any further steps in relation to this complaint.

FOI 10: **Complaint upheld**

[Decision notice FS50826453](#)

Hertfordshire East and North NHS Trust

21 May 2019

The complainant requested information about the number of complaints East and North Hertfordshire NHS Trust (“the Trust”) had agreed to investigate from a particular time period. The Commissioner’s decision is the Trust has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request. The Commissioner requires the Trust to respond to the complainant’s request in accordance with the FOIA. The Trust must take this step within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of the 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 FS50824373](#)

De Jefferies & Partners

17 May 2019

The complainant has requested information relating to the contract between Dr Jefferies & Partners (the practice) and Babylon GP at Hand. The Commissioner’s decision is that the practice has correctly applied section 43(2) to the withheld information. The Commissioner does not require the public authority to take any steps.

FOI 43: **Complaint upheld**

[Decision notice FS50754661](#)

Leeds Teaching Hospitals NHS Trust

17 May 2019

The complainant requested information relating to a review into a contract which governed the provision of orthopaedic surgery at Chapel Allerton Hospital, entered into by Leeds Teaching Hospitals NHS Trust (“the Trust”). The Trust withheld a report on the contract under section 40(2) of the FOIA (personal information) and section 41(1) of the FOIA (information provided in confidence) respectively, and also withheld a Trust review of the report under section 41(1) of the FOIA. The Commissioner’s decision is that the report is the personal data of the contributors to it; however, it is lawful, fair and transparent to disclose the report in accordance with Article 6(1)(f) of the GDPR. She has therefore determined that section 40(2) does not apply to the report. She has also determined that section 41(1) does not apply to either of the withheld documents in this case. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation: subject to paragraphs 110-112 below, disclose the report and the review, as defined in this notice, to the complainant.

FOI 40: **Complaint upheld** FOI 41: **Complaint upheld**

[Decision notice FS50783634](#)

NHS Commissioning Board (NHS England)

3 May 2019

The complainant has requested information associated with public information campaigns from NHS England ('NHSE'). NHSE released some information and has withheld the value of fees paid to particular celebrities under section 43(2) of the FOIA (commercial interests). The Commissioner's decision is that NHSE is entitled to rely on section 43(2) to withhold the disputed information and the public interest favours maintaining the exemption. The Commissioner does not require NHSE to take any remedial steps.

FOI 43: **Complaint not upheld**

[Decision notice FS50799203](#)

Great Ormond Street Hospital for Children NHS

2 May 2019

The complainant made a request for a copy of a draft report. Great Ormond Street Hospital for Children NHS Foundation Trust (the Trust) initially refused the request as vexatious under section 14(1) of the FOIA. The Trust later cited section 21 (available by other means) as the final report had been published. The Commissioner's decision is that the Trust has failed to supply any evidence to support any exemption to refuse to disclose the requested information. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation: to disclose the RCPCH's first draft report into the Gastroenterology Service. 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 14: **Complaint not upheld**

[Decision notice FS50760681](#)

Southern Health and Social Care Trust

2 May 2019

The complainant has made a 12 part request for information relating to the costs attributable to a disciplinary investigation involving a relative of the complainant. In response, Southern Health and Social Care Trust (the Trust) stated that it had previously provided information relating to a member of staff who had been employed to carry out the investigation. It refused to provide information relating to a payment made to a barrister because it considered the information to be the barrister's personal data. The Trust stated that it did not hold any other information falling within the scope of the request. The Commissioner's decision is that, on the balance of probabilities, the Trust has provided all the information it is required to within the scope of the request, and has complied with its obligations under section 1(1) of the FOIA. The Commissioner has also decided that the Trust has correctly withheld the information relating to the payment made to a barrister under section 40(2) of the FOIA. The Commissioner does not require any further steps to be taken as a result of this decision notice.

FOI 1: **Complaint not upheld** FOI 40(2): **Complaint not upheld**

[Decision notice FS50701707](#)

[Northern Devon Healthcare NHS Trust](#)

30 Apr 2019

In a multi-part request, the complainant has requested information associated with Northern Devon Healthcare NHS Trust's mobile device policy and procedures. Northern Devon Healthcare NHS Trust ('the Trust') released some information and advised that other information was in the course of being reviewed. The Trust refused to comply with five parts of the request under section 12(1) of the FOIA (cost exceeds the appropriate limit). The complainant is dissatisfied with the Trust's reliance on section 12(1). The Commissioner's decision is as follows: The Trust is entitled to rely on section 12(1) to refuse to comply with five parts of the complainant's request. The Trust breached section 16(1) of the FOIA as it did not consider whether it would be possible for the complainant to refine his request to bring it within the cost limit, at the time of the request. The Commissioner does not require the Trust to take any remedial steps. Information Tribunal appeal EA/2019/0180 under appeal.

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

[Decision notice FS50794110](#)

[East of England Ambulance Service NHS Trust](#)

29 Apr 2019

The complainant has requested metadata about a piece of correspondence which was sent to him. The Commissioner's decision is that East of England Ambulance Service NHS Trust is not entitled to rely on section 14 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, under FOIA, that does not rely on section 14. If and to the extent that the information is, or would be, the complainant's own personal data, the Trust should rely on either section 40(1) or section 40(5A) to refuse it as appropriate.

FOI 14: **Complaint upheld**

[Decision notice FS50800855](#)

[Wigan Borough Clinical Commissioning Group](#)

29 Apr 2019

In two requests, the complainant has requested information about the former Ashton, Leigh and Wigan Primary Care Trust's handling of personal data, and particular allegations that may have been made against a GP at Dicconson Group Practice. The position of Wigan Borough Clinical Commissioning Group ('the CCG') is that it holds none of the requested information. The Commissioner's decision is as follows: The CCG breached section 1(1)(a) of the FOIA with respect to request 1.2 as, on the balance of probabilities, it held relevant information at the time of the request on 22 August 2016. The Commissioner finds that this information is no longer held. The CCG complied with section 1(1)(a) with regard to request 1.1 and request 2 as, on the balance of probabilities, the CCG does not hold any related information. The Commissioner does not require the CCG to take any remedial steps. Information Tribunal appeal EA/2019/0181 under appeal.

FOI 1: **Complaint partly upheld**

[Decision notice FS50805408](#)

[Aneurin Bevan University Health Board](#)

23 Apr 2019

The complainant requested various information in respect of the training and qualifications of named individuals involved in an investigation considering concerns about medical practitioners. Aneurin Bevan University Health Board refused the request on the basis of section 40(2) of the FOIA. The Commissioner's decision is that Aneurin Bevan University Health Board was entitled to rely on section 40(2) to withhold the requested information. However, the Health Board's failure to send the refusal notice until 13 July 2018, represents a breach of section 17(1) of the FOIA. The Commissioner does not require the public authority to take any steps.

FOI 17: **Complaint upheld** FOI 40: **Complaint not upheld**

[Decision notice FS50783266](#)