



# Freedom of Information (FOI) Quarterly Report

NHS North Lincolnshire Clinical  
Commissioning Group (CCG)

Quarter One 2018/19 report covering the period  
from April to June 2018.

**Freedom of Information Manager**



## INTRODUCTION

This paper provides an update on the current position of requests made to NHS North Lincolnshire Clinical Commissioning Group (CCG) under the Freedom of Information Act 2000 (FOIA) from 1 April to 30 June 2018 and a comparison against quarter one in 2017/18.

### Volume of Requests – Timeliness of Responses

	<b>Quarter 1 2017/18</b>	<b>Quarter 1 2018/19</b>
<b>Requests Received</b>	Apr – Jun 2017	Apr – Jun 2018
<b>Total number of FOI requests received:</b>	<b>59</b>	<b>68</b>
Total Number of FOIs Processed	58*	68
Requests processed within 20 working days	56	68
Requests processed outside 20 working days	2*	0
Percentage processed FOIs Completed within 20 working days	96.6%	100%
<b>Average time taken to process (days)</b>	<b>15</b>	<b>15</b>

\* Please see 2017/18 quarterly reports for further detail.

Quarter one 2018/19 has seen a 15.3% increase in the number of FOI requests received against the same period in 2017/18. The average number of days to process the requests has remained the same. All requests processed in quarter one have been completed within the statutory 20 working day deadline.

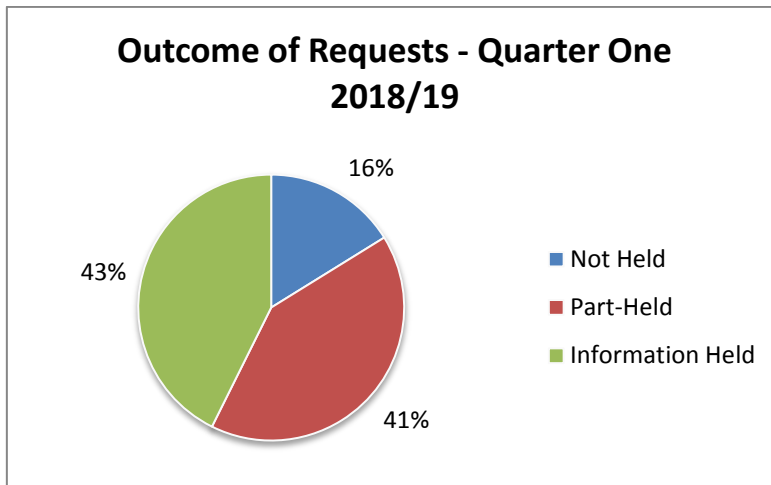
### Subject Area of Request

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

### Outcome of Requests

Of the 68 requests processed, 16.2% (11) sought information that was 'not held' by the CCG. Information was disclosed in full for 42.6% (29) of the requests. For the remaining 41.2% (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 19.1% (13) 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(s) for refusal.

<b>Exemption/Reason for Refusal</b>	<b>Number of requests applied to</b>
Section 12 - Cost of compliance	4
Section 21 - Accessible by other means	7
Section 40 - Data Protection	3
<b>Total</b>	<b>14</b>

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
7	5	-	2	2	-	-	4	2	1

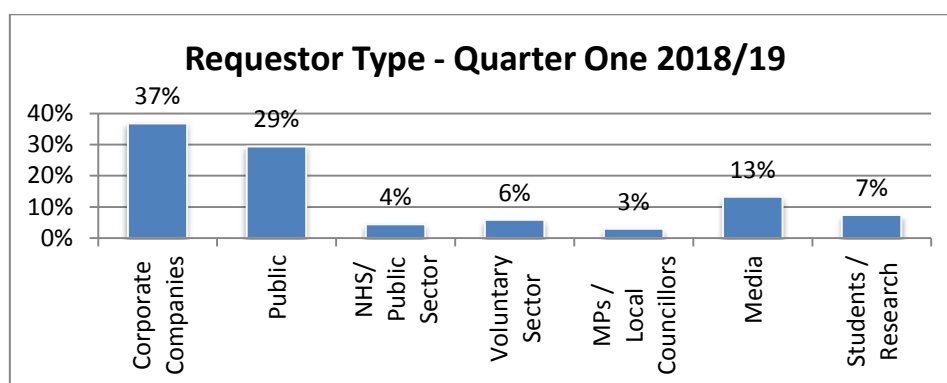
### **Category of Requester**

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 are members of the public and corporate companies.

<b>Summary of Requesters</b>	<b>Quarter 1 2017/18 Apr – Jun 2017</b>	<b>Quarter 1 2018/19* Apr – Jun 2018</b>
Charities, Voluntary Sector / Campaign Groups	3	4
Corporate Companies	26	25
Individual members of the public	19	20
Media (local and national)	8	9
Members of Parliament / Local Councillors	1	2
NHS/ Public Sector Organisations	2	3
Student / Research	-	5
<b>Total</b>	<b>59</b>	<b>68</b>

\*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 2018.

### **Considerations**

The CCG may wish to consider the offer of an FOI refresher session to be delivered by the Freedom of Information Manager to the CCG staff. Since the proposal made in the quarter four report 2016/17 this has not yet been accepted and/or confirmed.

### **Customer Feedback**

Whilst the FOI Team issues a survey link for the collection of feedback with every FOI response, there have been no returns from requestors during quarter one 2018/19.

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 (NL CCG – Q1 Attachment 1) provides an overview of the scores from the 13 responses we received.

The feedback highlighted a couple of key areas this year:

- Reminders are very helpful when approaching deadlines;
- Inclusion of previous responses is considered helpful to minimise effort;
- External bodies required to supply information held on behalf of the CCG feel deadlines can be tight due to FOIs being directed to them close to the 20 day deadline.

Overall the feedback this year has been very positive with very complimentary comments on the team's attitude and approach.

### **Decision Notices - Information Commissioners Office (ICO) and News**

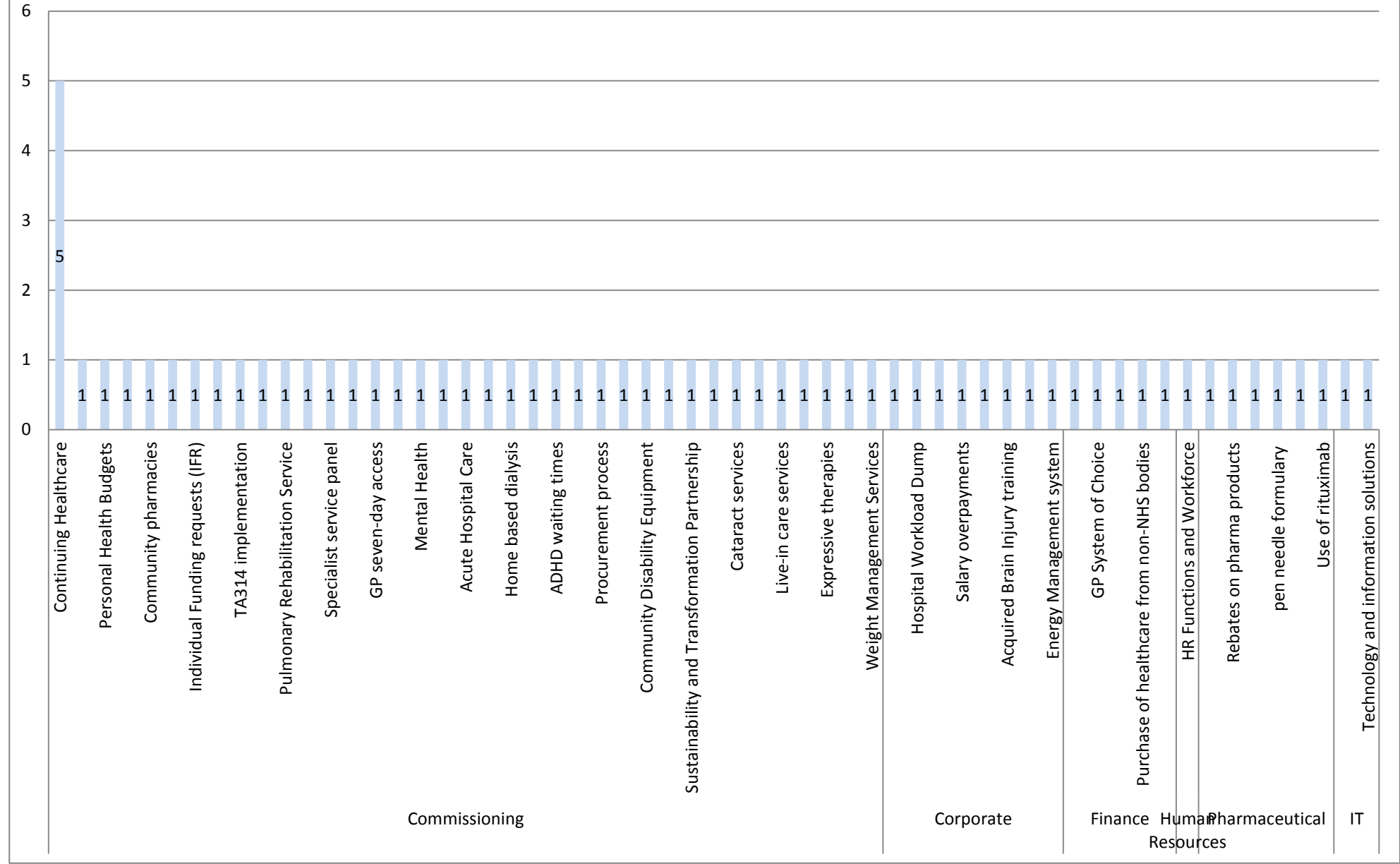
Appendix Two shows the ICO's health related Decision Notices for the quarter, including an instance where an applicant was re-directed to a website for the information requested as it was claimed the information was available to the applicant. The Commissioner's decision was that the surgery had incorrectly cited section 21 (information accessible by other means) of the FOIA as the information was not easily accessible, therefore the Commissioner required the public authority to provide a new response without reliance on section 21 within 35 calendar days of the date of the decision notice. Highlighting that failure to comply could result in the Commissioner making written certification to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

In addition, a decision notice relating to the NHS Commissioning Board (NHS England) may be of interest as a learning point. An applicant requested information on sources of revenue income for a number of Commissioning Support Units (CSUs). NHS England provided overall figures but refused to break this down further on the basis of section 43(2) of the FOIA. The Commissioner's decision is that NHS England has failed to demonstrate that there would be prejudice to the commercial interests of the CSUs if the information were to be disclosed. The Commissioner finds the section 43(2) exemption is not engaged and therefore requires the public authority to disclose the information requested.

The Cabinet Office has published a [revised Section 45 Code of Practice](#) following a consultation earlier this year. The draft code provides new, updated and/or expanded guidance on various issues, such as transparency about FOI performance, senior pay and general principles about how to define "information" and that which is "held" for the purposes of the Act.

Freedom of Information Manager

### Request Category by Subject Area



### DECISION NOTICES Health Related (15 in total) 1 April – 30 June 2018

#### [Central London Community Healthcare NHS Trust](#)

27 Jun 2018, Health

The complainant has requested information about a tender process associated with creating a dementia awareness video. Central London Community Healthcare NHS Trust ('the Trust') released some information having redacted some under section 40(2)(third person personal data). The Commissioner's decision is as follows: The Trust has communicated to the complainant the majority of the information it holds that falls within the scope of five of his requests that is not exempt information, and has complied with section 1 of the FOIA with regard to this information. The Trust breached section 10(1) as it did not communicate all the relevant information it holds within the required timescale of 20 working days. The Trust can rely on section 40(2) to withhold the majority of the information to which it has applied this exemption as it is the personal data of third persons. It incorrectly applied section 40(2) to some of the withheld information; namely cost figures in the 'Document 2' email exchange. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation: Release the cost figures withheld from the 'Document 2' email exchange in the emails dated 13 March 2017 19:10 and 14 March 2017 10:03:10.

FOI 10: Complaint upheld FOI 40: Complaint upheld FOI 1: Complaint partly upheld  
[Decision notice FS50703316](#)

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

25 Jun 2018, Health

The complainant has made a two part request for information relating to a complaint he submitted to NHS England, and information relating to its decision not to accept his reason for not attending any of the medical practices offered to him. NHS England withheld all the information, citing the exemption under section 40(1) (personal information) of the FOIA as its basis for doing so. The complainant considers NHS England's reasons for withholding the requested information are neither valid nor fair. The complainant is also concerned that NHS England has not complied with its obligations under section 1(1), section 10(1) and section 17(1) of the FOIA. The Commissioner's decision is that NHS England has complied with its obligations under section 1(1), section 10(1) and section 17(1) of the FOIA. The Commissioner also finds that the requested information was exempt from disclosure under section 40(1) of the FOIA but NHS England should have cited section 40(5)(a) to neither confirm nor deny whether it holds the requested information. The Commissioner does not require the public authority to take any steps as a result of this decision notice.

FOI 17: Complaint not upheld FOI 10: Complaint not upheld FOI 40: Complaint not upheld FOI 1: Complaint not upheld

[Decision notice FS50681495](#)

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

19 Jun 2018, Health

The complainant has requested information on sources of revenue income for a number of Commissioning Support Units (CSU's). NHS England provided overall figures but refused to break this down further into funding received from Clinical Commissioning Group's (CCG's), other NHS bodies and non-NHS bodies on the basis of section 43(2) of the FOIA. The Commissioner's decision is that NHS England has failed to demonstrate that there would be prejudice to the commercial interests of the CSU's if the information were to be disclosed. The Commissioner finds the section 43(2) exemption is not engaged. The Commissioner requires the public authority to disclose the information requested at parts a), b) and c) of the request.

FOI 43: Complaint upheld

[Decision notice FS50742788](#)

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

18 Jun 2018, Health

The complainant has requested information from the trust relating to its non-emergency ambulance service. To the date of this notice, the trust has failed to respond to the request. The Commissioner's decision is that the trust has breached section 10 of the FOIA by failing to respond to the request within 20 working days of receipt. The Commissioner requires the trust to respond to the request in accordance with the FOIA. It should either disclose the requested information or issue an appropriate refusal notice under section 17 of the FOIA.

FOI 10: Complaint upheld

[Decision notice FS50748157](#)

### [NHS Improvement](#)

15 Jun 2018, Health

The complainant requested a copy of a Board document. The NHS Improvement (NHSI) refused the request under sections 36(2)(b) and 36(2)(c) as it considered that disclosure would inhibit the free and frank provision of advice or exchange of views, or would otherwise prejudice the effective conduct of public affairs. The Commissioner's decision is that NHSI correctly applied section 36(2)(b) of the FOIA to the withheld information and the public interest favours maintaining the exemption. The Commissioner does not require the public authority to take any action.

FOI 36: Complaint not upheld

[Decision notice FS50717414](#)

### [NHS Devon Clinical Commissioning Group](#)

13 Jun 2018, Health

The complainant requested from NHS Devon Clinical Commissioning Group (DCCG) information regarding policies, procedures, practices, standards and guidelines. The Commissioner's decision is that DCCG failed to respond to the request within the



statutory time limit of 20 working days and has therefore breached section 10 of the FOIA. As the requested information has now been provided, the Commissioner does not require DCCG to take any further steps.

FOI 10: Complaint upheld

[Decision notice FS50716763](#)

### Care Quality Commission

1 Jun 2018, Health

The complainant has requested inspectors' handwritten notes used to compile an inspection report on Orchard Lodge care home. The Care Quality Commission (CQC) withheld this information under sections 30(2) (investigations and proceedings), 31(1)(g) (law enforcement), 40(2) (third person personal data), 41(1) (information provided in confidence) and 44(1)(a) (prohibitions on disclosure) of the FOIA. During the Commissioner's investigation, CQC released some of the information, after redacting personal data under section 40(2) from part of it. The Commissioner's decision is as follows: CQC is correct to withhold a small amount of information from both Inspector 1's notes and the feedback summary note under section 40(2) of the FOIA. CQC is correct to apply section 41(1) of the FOIA to the information it has withheld from Inspector 1's notes and to Inspector 2's notes in their entirety. CQC breached section 10(1) as it did not comply with section 1(1)(b) within 20 working days with respect to information it released on 4 January 2018 (the feedback summary note) and 2 May 2018 (information contained in Inspector 1's notes). The Commissioner does not require CQC to take any steps to ensure compliance with the legislation.

FOI 10: Complaint upheld FOI 40: Complaint not upheld FOI 41: Complaint not upheld

[Decision notice FS50704681](#)

### University Hospitals Plymouth NHS Trust

23 May 2018, Health

The complainant requested information from the University Hospitals Plymouth NHS Trust (the Trust) relating to its GUM YourSHIP department and service line policies. The Trust cited section 21 as it considered the requested information is accessible to the complainant by other means and confirmed that they did not hold any further information. The complainant considered that more information must be held. The Commissioner's decision is that the Trust correctly applied section 21 and does not hold any further information in this case. The Commissioner does not require the Trust to take any steps. This decision notice is currently under appeal to the Tribunal.

FOI 10: Complaint upheld FOI 21: Complaint not upheld FOI 1: Complaint not upheld

[Decision notice FS50712640](#)

### [South Devon and Torbay Clinical Commissioning Group](#)

3 May 2018, Health

The complainant has requested a copy of a community eating disorder evaluation report presented to South Devon and Torbay Clinical Commissioning Group (“the CCG”). The CCG refused to provide this on the basis of sections 43, 36 and 41 of the FOIA. The Commissioner’s decision is that the CCG has failed to demonstrate that any of the cited exemptions are engaged. The Commissioner requires the public authority to disclose the community eating disorder evaluation report.

FOI 43: Complaint upheld FOI 41: Complaint upheld FOI 36: Complaint upheld

[Decision notice FS50700284](#)

### [Upton Road Surgery](#)

2 May 2018, Health

The complainant has requested information relating to the prescribing of Dexamethasone and Cyclophosphamide. The Commissioner’s decision is that Upton Road Surgery (the surgery) has incorrectly cited section 21 (information accessible by other means) of the FOIA. The Commissioner also finds that the surgery was in breach of section 10 of the FOIA as it did not provide a response within the statutory 20 working days. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation. Provide the complainant with a new response without reliance on section 21. 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 21: Complaint upheld FOI 10: Complaint upheld

[Decision notice FS50703024](#)

### [NHS Basildon and Brentwood CCG](#)

26 Apr 2018, Health

The complainant made a request for the names of individuals involved in drafting a particular document. The CCG refused to disclose the requested information under section 40(2) FOIA. The Commissioner’s decision is that the CCG has correctly applied section 40(2) FOIA to the withheld information. The Commissioner requires no steps to be taken.

FOI 40(2): Complaint not upheld

[Decision notice FS50709110](#)

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

26 Apr 2018, Health

In ten requests the complainant has requested information from East of England Ambulance Service NHS Trust (‘the Trust’) about aspects of its performance and its operations. The Trust has refused to comply with the requests which it says are vexatious under section 14(1) of the FOIA. The Commissioner’s decision is as follows: The complainant’s ten requests are not vexatious and the Trust is not

entitled to rely on section 14(1) of the FOIA with regard to these requests. The Commissioner requires the Trust to take the following step to ensure compliance with the legislation: Issue a fresh response to the ten requests in the appendix to this notice that does not rely on section 14(1) of the FOIA. This decision notice is currently under appeal to the Tribunal.

FOI 14: Complaint upheld

[Decision notice FS50735248](#)

### [Callowland Surgery](#)

25 Apr 2018, Health

The complainant has requested information relating to the prescribing of Dexamethasone and Cyclophosphamide. The Commissioner's decision is that The Callowland Surgery (the surgery) has breached section 10 (time for compliance) of the FOIA. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation. Provide a response to the complainant's request. 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. The Commissioner notes that a medical practice itself is not for the purposes of FOIA a public authority. Rather, each GP who provides primary medical services is a public authority themselves and has a duty to reply to a request in accordance with section 1 of FOIA. However, the Commissioner acknowledges that when an applicant makes a freedom of information request to a medical practice it is reasonable to expect that the practice will act as the single point of contact and process the request on the doctors' behalf. For the purposes of this decision notice all references to the medical practice should be regarded as referring to the public authority.

FOI 10: Complaint upheld

[Decision notice FS50704019](#)

### [Public Health England](#)

17 Apr 2018, Health

The complainant has requested information about the species of Borrelia used to create the VISE component of the Lyme Immunoblot test. Public Health England stated that the requested information was not held. The Commissioner's decision is that on a balance of probabilities Public Health England do not hold the stated information. The Commissioner does not require Public Health England to take any steps.

FOI 1: Complaint not upheld

[Decision notice FS50719621](#)

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

5 Apr 2018, Health

In two requests, the complainant has requested information about tail breaches and Unit Hours Production for the months of May and June 2017. East of England

Ambulance Service NHS Trust ('the Trust') has refused to comply with the requests which it says are vexatious under section 14(1) of the FOIA. The Commissioner's decision is that the complainant's requests are not vexatious and the Trust is not entitled to rely on section 14(1). The Commissioner requires the Trust to take the following step to ensure compliance with the legislation: Issue a fresh response to the complainant's requests that does not rely on section 14(1) of the FOIA. This decision notice is currently under appeal to the Tribunal.

FOI 14: Complaint upheld

[Decision notice FS50702860](#)