



Freedom of Information (FOI) Quarterly Report

NHS North Lincolnshire Clinical
Commissioning Group (CCG)

Quarter Four and Year End 2018/19 report
covering the period from January to March 2019.

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 January to 31 March 2019 and a comparison against quarter four in 2017/18.

Volume of Requests – Timeliness of Responses

	Quarter 4 2017/18	Quarter 1 2018/19	Quarter 2 2018/19	Quarter 3 2018/19	Quarter 4 2018/19	Year to Date Comparison	
Requests Received	Jan – Mar 2018*	Apr – Jun 2018* ²	Jul – Sep 2018* ²	Oct – Dec 2018	Oct – Dec 2018	2017/18*	2018/19
Total number of FOI requests received:	61	68	77	55	58	244	258
Total Number of FOIs Processed	60	68	77	54	58	240	257
Requests processed within 20 working days	60	68	77	53	58	238	256
Requests processed outside 20 working days	0	0	0	1* ³	0	2	1
Percentage processed FOIs Completed within 20 working days	100%	100%	100%	98.1%	100%	99.2%	99.6%
Average time taken to process (days)	14	15	16	15	17	15	16

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

*² Please see previous report for further details.

Quarter four 2018/19 has seen a 5.5% increase in the number of FOI requests received on the number of requests received in quarter three 2018/19 and the average number of days to process the requested has increased to 17 days. Against the same period in 2017/18 there has been an 4.9% decrease in the number of requests received, however, the average number of days to process requests has increased. Year to date against the previous financial year, there has been a 5.7% increase in the number of requests received and the average number of days taken to process them has increased slightly.

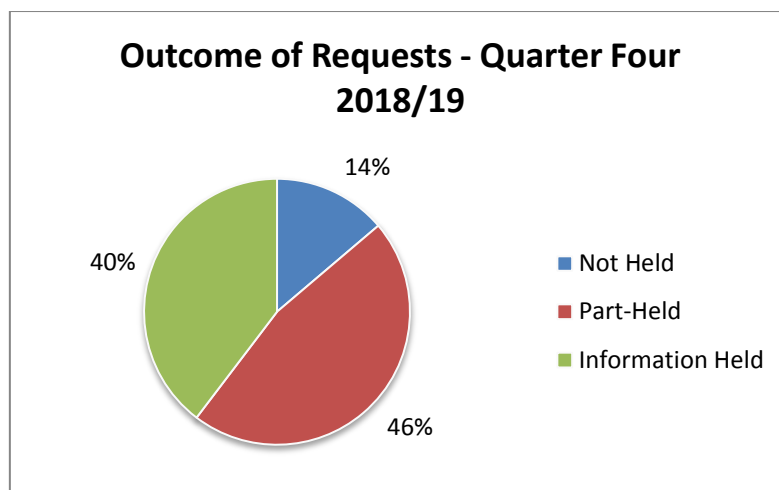
Subject Area of Request

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 Individual Funding Request (IFR) commissioning. In addition, audiology, wheelchair services, continuing healthcare and contact details 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 58 requests processed, 13.8% (8) sought information that was 'not held' by the CCG. Information was disclosed in full for 36.2% (21) of the requests. For the remaining 50.0% (29) of the requests the information was partially disclosed, either because only part of the information was held or because an exemption was applied to all or part of the request. Exemptions were applied to 19.0% (11) 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. As shown in the table, one of 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 requests applied to
Section 12 - Cost of compliance	6
Section 21 - Accessible by other means	6
Section 40 - Data Protection	2
Total	14

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
9	7	-	-	5	-	-	3	-	-

In summary for the financial year 2018/19, during the period from 1 April 2018 to 31 March 2019, the CCG provided the full information requested in 103 cases. The CCG did not provide the information requested in 52 cases because an exemption was applied either to part of, or to the whole request. E.g. information was accessible by other means; the cost of providing the information exceeded the limits set by the FOIA; disclosure of information would be likely to prejudice the commercial interests of any person; or information requested related to personal data.

The CCG did not provide information in 38 cases where the CCG did not hold the information and, where possible, the applicant was redirected to the correct organisation for the information.

One FOI response was issued to the applicant outside of the 20 working day deadline due to an administrative error and there have been zero requests received that have been referred for internal review.

Category of Requester

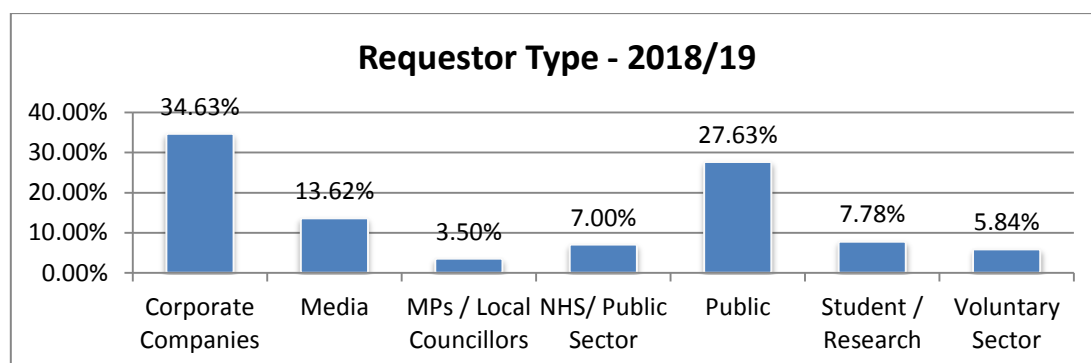
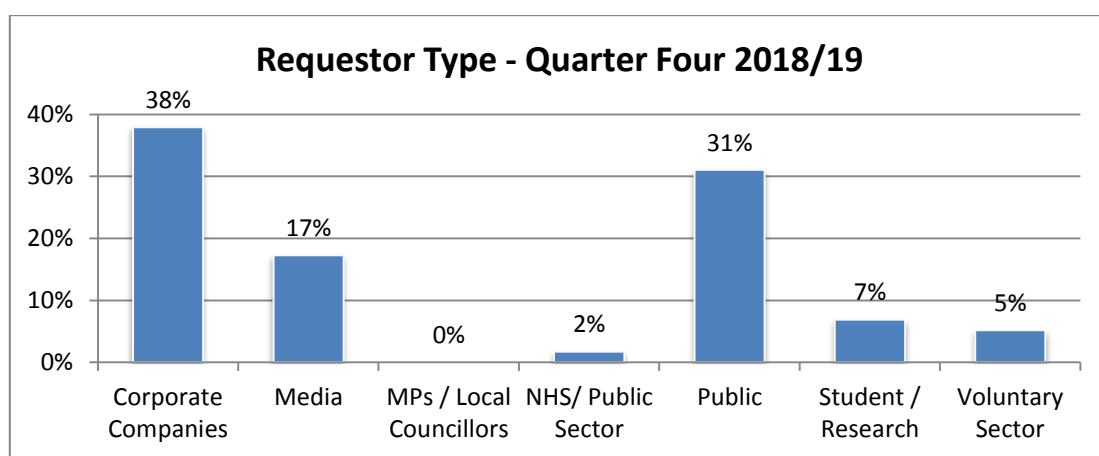
In accordance with the FOIA, the CCG maintains an ‘applicant-blind’ approach when providing information in response to requests. Where possible the type of FOI requester is recorded by the FOI team to help identify where the main demand for information originates. Please note, a new category, ‘students / 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. A chart is also included for the financial year 2018/19 as a whole.

Summary of Requesters*	Quarter 4 2017/18 Jan – Mar 2018	Quarter 1 2018/19 Apr – Jun 2018	Quarter 2 2018/19 Jul – Sep 2018	Quarter 3 2018/19 Oct – Dec 2018	Quarter 4 2018/19 Jan – Mar 2019
	Charities, Voluntary Sector / Campaign Groups	7	4	4	4
Corporate Companies	19	25	26	16	22
Individual members of the public	23	20	18	15	18

Summary of Requesters*	Quarter 4 2017/18 Jan – Mar 2018	Quarter 1 2018/19 Apr – Jun 2018	Quarter 2 2018/19 Jul – Sep 2018	Quarter 3 2018/19 Oct – Dec 2018	Quarter 4 2018/19 Jan – Mar 2019
Media (local and national)	9	9	12	4	10
Members of Parliament / Local Councillors	0	2	5	2	0
NHS/ Public Sector Organisations	2	3	6	8	1
Student / Research	-	5	6	4	4
Total	60	68	77	53	58

*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 January and 31 March 2019.

Records Management

During the 2018/19 financial year, FOIA request records from 2013/14 and 2014/15 were reviewed for destruction. The FOI Team are pending approval from Integrated Governance and Audit Committee regarding the following decisions in order to proceed:

1. Destruction of 2013/14 FOI records, including the 2013/14 FOI register; with the exception of any records where an Internal Review was carried out.
2. Delegation of future decisions for destruction to the CCG SIRO in consultation with the FOI Manager and to note future destructions will be reported in FOI reports.

Code of Practice

Further to additional guidance on the government's Section 45 Code of Practice being issued during 2018/19, the CCG's FOI reports are now being published on the CCG website and are available at the following link:

<https://northlincolnshireccg.nhs.uk/publication-scheme/what-are-our-priorities-and-how-are-we-doing/>

Training

A two-page guide to FOI to help staff understand their responsibilities under FOIA was provided to the CCG for circulation with all CCG staff in February 2019.

As always the FOI Team is available to meet with the CCG if there are any problems and to provide either 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 has only been one return completed from requestors during quarter four. Overall the response is positive and a summary is attached.

Assurance

In accordance with the FOI Shared Service Memorandum of Understanding (MOU) the FOI team adhere to the information processing requirements as identified in Schedule 3 of the MOU. For example; all information processing is undertaken in accordance with NHS Information Governance requirements and current Data Protection Legislation, and the FOI team have undergone adequate training in the use, care, protection and handling of Personal Data.

Decision Notices - Information Commissioners Office (ICO) and News

Appendix Two shows the ICO's health related Decision Notices for the quarter. Half 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 several decision notices during this period that may be of interest around the application of section 43 (commercial interests). In two cases, Harrogate and District NHS Foundation Trust and Northumbria Healthcare NHS Foundation Trust, had incorrectly

applied the section 43 exemption in relation to commercial interests. The ICO concluded that the Trusts failed to demonstrate the exemption applied, for example where disclosure of information would have any prejudicial effect on the commercial interests of any party.

In another case NHS Ealing CCG had correctly engaged the section 43 exemption but the Information Commissioner found that only limited information in the requested documents engaged this exemption and that it did not apply to all of the information in the scope of the request.

The Information Commissioner investigated a case where Barts Health NHS Trust suppressed numbers in information for cancelled operations and refused to provide the suppressed numbers on the grounds that the information was exempt under section 40(2) of the FOIA (third party personal data). In this instance the Commissioner concluded that the information did not relate to a living person and did not relate to a person who was identifiable, therefore was satisfied that the requested information in this case did not constitute personal data. As it was not personal data, section 40 of FOIA could not apply and the Commissioner did not need to go on to determine whether disclosure would contravene any of the data protection principles. The Commissioner's decision was that the Trust had incorrectly applied this exemption and required the Trust to disclose the suppressed numbers within 35 calendar days of the date of the decision notice.

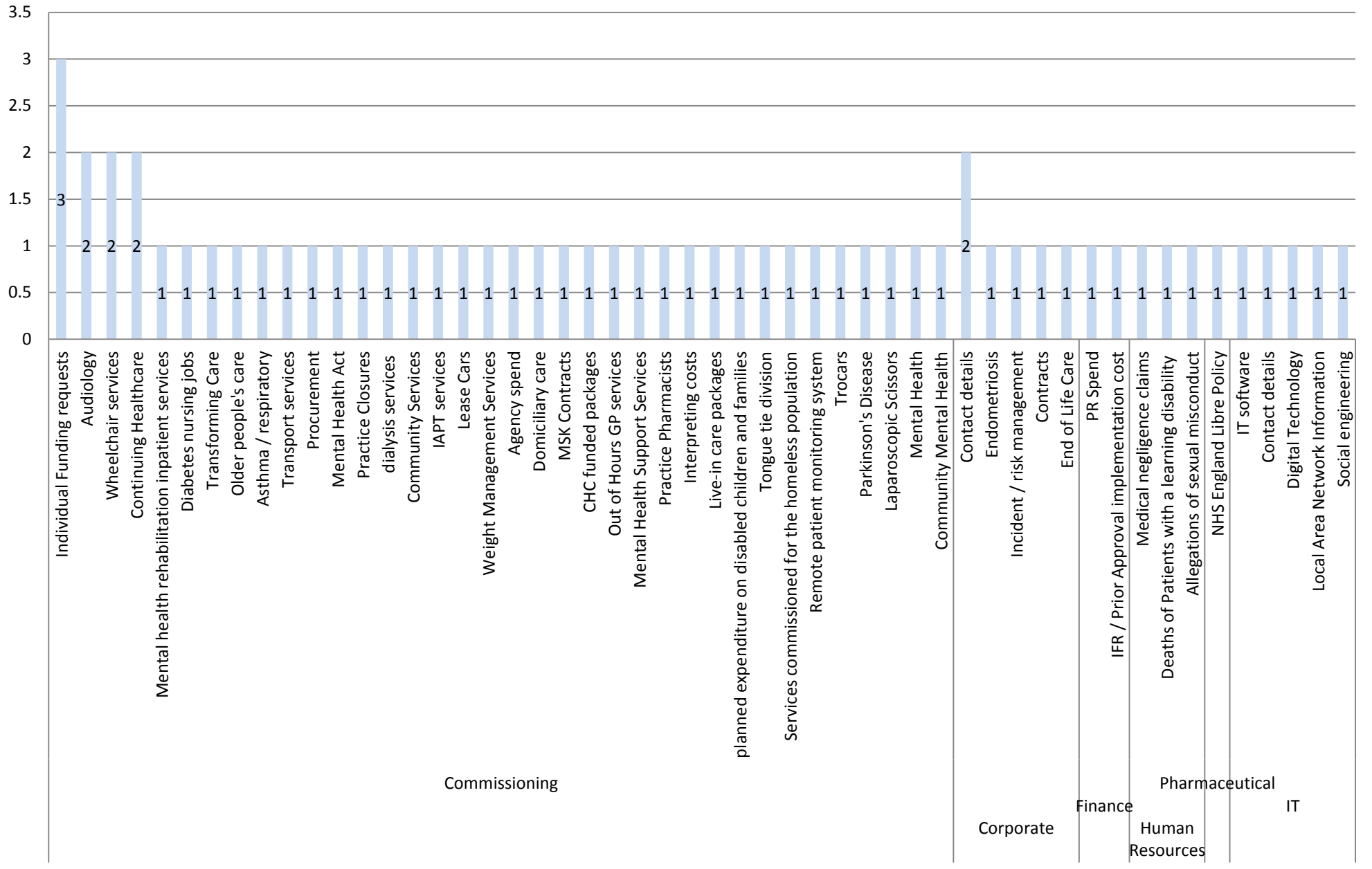
The ICO also investigated whether Northumbria Healthcare NHS Foundation Trust had correctly applied section 12 in respect of the time and costs it would take to comply with a request. The Information Commissioner's decision concluded that the Trust had been correct to engage section 12 and also decided that the Trust had satisfied its obligations under section 16, to provide advice and assistance to the applicant, which had allowed the applicant to submit a refined request.

The ICO has now published its updated FOIA [guidance](#) to reflect the changes in the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA). The guidance particularly applies to public authorities dealing with FOIA requests or requests under Environment Information Regulations (EIR). It is also anticipated that further to the issuing of the Section 45 Code of Practice in July 2018 the ICO intends to update their Guide to FOIA and Section 45.

During quarter four there was news that a former GP Practice Manager had been fined for sending personal data to their own email account without authorisation. The practice manager was suspended in November 2017 for unrelated matters and dismissed later that month. At the time of the incident, the individual was also employed by the Care Quality Commission as a Specialist Adviser for Practice Management, meaning they still had access to their NHS email account following their suspension from the surgery. The day following their suspension, they forwarded an email from their work email account to their personal email account without a business reason to do so. It contained 13 application forms which had been submitted several months earlier for a vacancy at the surgery and included names, addresses, personal email addresses, national insurance numbers of candidates as well as further personal data of their referees. The individual admitted unlawfully accessing personal data and was fined £120, plus £364 costs and a victim surcharge of £30.

Freedom of Information Manager

Request Category by Subject Area



Appendix Two

DECISION NOTICES Health Related (40 in total) 1 January – 31 March 2019

[Northern Devon Healthcare NHS Trust](#)

29 Mar 2019, Health

The complainant has requested a report produced by the Royal College of Obstetricians and Gynaecologists (RCOG) into the North Devon Hospital's maternity unit. Northern Devon Healthcare NHS Trust (the trust) refused to disclose the information citing sections 36(2)(b) and (c) of the FOIA. The Commissioner's decision is that the trust is entitled to withhold the requested information under section 36(2)(b) of the FOIA and the public interest rests in maintaining the exemption. The Commissioner does not require any further action to be taken.

FOI 36: Complaint not upheld

[Decision notice FS50730159](#)

[Barts Health NHS Trust](#)

29 Mar 2019, Health

The complainant has requested information relating to the suppressed numbers from the disclosed information for cancelled operations. Barts Health NHS Trust (the Trust) refused to provide the suppressed numbers citing the exemption under section 40(2) of the FOIA (third party personal data) as its basis for doing so. The Commissioner's decision is that the Trust has incorrectly applied section 40(2) of FOIA to the withheld information. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation: to disclose the 3 suppressed numbers from 2015/16 and 2016/17 for the cancelled operations for the categories 'no X-ray' and 'Unknown'. 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 40: Complaint upheld

[Decision notice FS50814866](#)

[NHS Commissioning Board](#)

28 Mar 2019, Health

The complainant has requested staff organograms for all Commissioning Support Units (CSU's) including current NHS pay bands. NHS Commissioning Board (NHS England) initially refused the request on the basis of section 43 and 21 of the FOIA but during the Commissioner's investigation reconsidered the request and sought to refuse to provide the information as to do so would exceed the appropriate cost limit under section 12 of the FOIA. The Commissioner's decision is that NHS England has correctly refused the request under section 12 of the FOIA and has also complied with its obligations under section 16 of the FOIA by providing advice and assistance to the complainant.

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

[Decision notice FS50760954](#)

[Nottinghamshire Healthcare NHS Foundation Trust](#)

21 Mar 2019, Health

The complainant has requested a copy of an NHS inquiry into an Immigration Removal Centre. This was initially refused by Nottinghamshire Healthcare NHS Foundation Trust (“the Trust”) on the basis of section 36(2)(c) of the FOIA. The Trust later sought to also apply the exemptions from disclosure at section 31, 41 and 40 of the FOIA. The Commissioner’s decision is that the Trust has correctly applied the provisions at section 31(e) and (f) and that the public interest favours maintaining the exemption. She requires no steps to be taken.

FOI 31: Complaint not upheld

[Decision notice FS50751415](#)

[NHS Liverpool Clinical Commissioning Group](#)

21 Mar 2019, Health

The complainant has requested information relating to the mental health services NHS Liverpool Clinical Commissioning Group (the CCG) has commissioned for Black and Minority Ethnic individuals/community since its inception. The CCG disclosed the recorded information it holds. The complainant believes the CCG holds further recorded information and has breached the FOIA whilst handling his request. The Commissioner’s decision is that on the balance of probabilities the CCG does not hold any further recorded information to that already disclosed. The Commissioner has however found the CCG in breach of section 10(1) of the FOIA in this case. The Commissioner does not require any further action to be taken.

FOI 1: Complaint not upheld FOI 10(1): Complaint upheld

[Decision notice FS50787821](#)

[NHS Ealing Clinical Commissioning Group](#)

21 Mar 2019, Health

The complainant has requested papers, agendas, minutes and documents relating to a tender by NHS Ealing CCG for community services. The CCG confirmed it held a business case, agenda, additional considerations paper and minutes but refused to provide these on the basis of section 43(2) of the FOIA. The CCG later sought to also apply section 22 to the business case and additional considerations paper. The Commissioner’s decision is that section 22 has not been correctly applied by the CCG. In relation to section 43, the Commissioner finds that only limited information in the requested documents engages this exemption but the information that does engage the exemption has been correctly withheld under section 43(2). The Commissioner requires the public authority to disclose all information in the requested documents which does not engage section 43(2). The information that engages section 43(2) as identified by the CCG and in the confidential annex provided to the public authority can be withheld.

FOI 43: Complaint not upheld FOI 22: Complaint upheld

[Decision notice FS50754060](#)

[Northumbria Healthcare NHS Foundation Trust](#)

12 Mar 2019, Health

The complainant has requested information about 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) and is satisfied that the Trust met its obligation under section 16 to offer advice and assistance. The Commissioner does not require the public authority to take any steps.

FOI 12: Complaint not upheld

[Decision notice FS50794607](#)

[NHS England](#)

11 Mar 2019, Health

The complainant requested information from NHS England about the NHS Capacity Tracker as referenced on HM Government website. 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 the public authority to respond to the complainant's request in accordance with the FOIA.

FOI 10: Complaint upheld

[Decision notice FS50819382](#)

[NHS South Worcestershire Clinical Commissioning Group](#)

7 Mar 2019, Health

The complainant has requested from NHS South Worcestershire Clinical Commissioning Group (the CCG) email addresses held of its member GP practices. The Commissioner's decision is that the CCG failed to provide the complainant with a copy of the requested information within the required timeframe and has therefore breached section 10 of the FOIA. As the CCG has now disclosed the information to the complainant, the Commissioner does not require any further steps to be taken.

FOI 10: Complaint upheld

[Decision notice FS50794993](#)

[NHS England](#)

6 Mar 2019, Health

The complainant requested information relating to mental health homicides. NHS England failed to respond to this request within the statutory time for compliance. The Commissioner considers that NHS England 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 FS50815984](#)

[Chelsea and Westminster NHS Foundation Trust](#)

5 Mar 2019, Health

The complainant has requested information relating to "Did Not Attend" ("DNAs"). The Commissioner's decision is that Chelsea & Westminster Hospitals NHS

Foundation Trust has provided all the information which it holds in respect of elements [1] and [3] of the request. In respect of element [2] it is entitled to rely on Section 12 of the FOIA to refuse to comply with this part of the request. However, the Commissioner also finds that the Trust failed to communicate information which it held and failed to issue an adequate refusal notice within 20 working days. The Trust therefore breached Sections 10 and 17 of the FOIA respectively. The Commissioner does not require any further steps to be taken.

FOI 17: Complaint upheld FOI 10: Complaint upheld FOI 1: Complaint not upheld
FOI 12: Complaint not upheld

[Decision notice FS50740940](#)

[NHS Enfield Clinical Commissioning Group](#)

5 Mar 2019, Health

In two requests the complainant has requested information from NHS Enfield Clinical Commissioning Group ('the CCG') about an 'Enfield Single Offer' contract. The CCG relied on section 21(1) of the FOIA with regards to some information (information accessible to the applicant by other means); it released some information and provided links to where other relevant information is published. The complainant considers that the CCG holds further relevant information. The Commissioner's decision is as follows: On the balance of probabilities, the CCG holds no further information falling within the scope of the requests and has now complied with section 1(1)(a) of the FOIA. The CCG breached section 10(1) as it has not communicated to the complainant all the information it holds within 20 working days. The Commissioner requires the CCG to take the following step to ensure it complies with the legislation: If it has not already done so, in order to comply with section 1(1)(b) of the FOIA the CCG must communicate to the complainant the further information it has identified it holds, which it has referred to in its submission of 4 March 2019, having redacted personal data from it.

FOI 10: Complaint upheld FOI 1: Complaint partly upheld

[Decision notice FS50758483 and FS50758484](#)

[Northern Ireland Ambulance Service](#)

27 Feb 2019, Health

The complainant requested information from the Northern Ireland Ambulance Service Health and Social Care Trust (NIAS). Despite the Commissioner's intervention NIAS has failed to respond to the request. Therefore the Commissioner's decision is that NIAS has failed to comply with regulation 5(2) of the EIR. The Commissioner requires the public authority to respond to the request.

EIR 5: Complaint upheld

[Decision notice FER0744307](#)

[George Eliot Hospital Trust](#)

26 Feb 2019, Health

The complainant has made a request for information relating to physical assaults on staff. Despite the intervention of the Commissioner, George Eliot Hospital NHS Trust (the Trust) has not provided a response to the request in accordance with the FOIA. The Commissioner's decision is that the Trust has failed to respond to the

complainant's request within 20 working days of receipt and has therefore breached section 10(1) of the FOIA. The Commissioner requires the Trust to provide the complainant with a response to the request in accordance with its obligations under the FOIA.

FOI 10(1): Complaint upheld

[Decision notice FS50814589](#)

[Wirral University Teaching Hospital NHS Foundation Trust](#)

26 Feb 2019, Health

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

FOI 10(1): Complaint upheld

[Decision notice FS50814581](#)

[Salisbury NHS Foundation Trust](#)

25 Feb 2019, Health

The complainant has requested statistical information regarding allegations of abuse. The Commissioner's decision is that Salisbury NHS Foundation Trust failed to issue a refusal notice, setting out an exemption it later came to rely upon, within 20 working days. It therefore breached Section 17 of the FOIA. The Commissioner does not require any further steps to be taken.

FOI 17: Complaint upheld

[Decision notice FS50748675](#)

[Kettering General Hospital NHS Foundation Trust](#)

21 Feb 2019, Health

The complainant requested information from the Local Government and Social Care Ombudsman regarding the number of complaints it has refused in the last twelve months and related information. The Commissioner's decision is that the Local Government and Social Care Ombudsman failed to respond to the request within 20 working days and therefore breached Section 10 of the Freedom of Information Act ("the FOIA"). As a response has been issued, the Commissioner does not require the Local Government and Social Care Ombudsman to take any further steps.

FOI 10: Complaint upheld

[Decision notice FS50819436](#)

[Dr Collins & Partners](#)

19 Feb 2019, Health

The complainant has requested information relating to communications from Great Yarmouth and Waverney Clinical Commissioning Group to Beccles Medical Centre (the Practice) instructing doctors that they are no longer allowed to prescribe

Liothyronine Sodium to their patients. The Practice has stated that it does not hold the requested information. The Commissioner's decision is that the Practice does not hold the requested information. However, she has recorded a breach of section 10 of the FOIA, as the Practice failed to respond to the complainant's request within 20 working days of receipt. The Commissioner does not require any further steps to be taken as a result of the decision notice.

FOI 10: Complaint upheld FOI 1: Complaint not upheld

[Decision notice FS50742818](#)

[Wrightington Wigan and Leigh NHS Foundation Trust](#)

18 Feb 2019, Health

The complainant requested information from Wrightington, Wigan and Leigh NHS Foundation Trust (the Trust) regarding all racist incidents reported to the Trust. The Trust provided the complainant with information – racial incidents which had been recorded on its system. However, the complainant considered that the Trust had not provided all information relating to his request. The Commissioner's decision is that, on the balance of probabilities, the Trust does not hold any information to that already provided. Therefore, the Commissioner does not require the Trust to take any steps as a result of this decision.

FOI 1: Complaint not upheld

[Decision notice FS50667337](#)

[Public Health Agency](#)

14 Feb 2019, Health

The complainant has requested information from the Public Health Agency (PHA) in relation to health services and funding. The PHA disclosed some information and stated that it does not hold the remainder, in respect of which it has referred the complainant to another public authority. The Commissioner's decision is that the PHA does not hold any further information within the scope of the complainant's request other than that which it has already disclosed to her. Therefore the Commissioner requires no steps to be taken.

FOI 1: Complaint not upheld

[Decision notice FS50741059](#)

[NHS England](#)

13 Feb 2019, Health

The complainant requested information from NHS England about further details of each contract in relation to services provided by Heath@Work between 2013 and 2016. 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 FS50813887](#)

[Lancashire Care NHS Foundation Trust](#)

12 Feb 2019, Health

The complainant has requested information relating to a new post created by Lancashire Care NHS Foundation Trust (the trust). The Commissioner's decision is that the trust has complied with its obligations under section 1 of the FOIA. The Commissioner does not require the public authority to take any steps.

FOI 1: Complaint not upheld

[Decision notice FS50788607](#)

[General Medical Council](#)

12 Feb 2019, Health

The complainant has requested information regarding a particular individual being removed from the Medical Register. The Commissioner's decision is that the request was vexatious and therefore the General Medical Council was entitled to rely on Section 14 to refuse it. The Commissioner does not require any further steps to be taken.

FOI 14: Complaint not upheld

[Decision notice FS50776105](#)

[Nursing and Midwifery Council](#)

6 Feb 2019, Health

The complainant has requested copies of information exchanged in correspondence between the Nursing and Midwifery Council (NMC) and two nursing homes about which he had submitted a complaint. The NMC stated that the information, if held, would engage either section 40 or 42 of the FOIA. The Commissioner's decision is that the NMC has incorrectly applied section 40(2) of the FOIA to the request.

However, the Commissioner has decided that under section 40(5)(b)(i) of the FOIA, the NMC is not obliged to confirm or deny that it holds the requested information as to do so would release the personal data of third party individuals. Information

Tribunal appeal EA/2018/0023 allowed

FOI 40: Complaint not upheld

N.B The link on the ICO website does not provide any additional information.

[Care Quality Commission](#)

4 Feb 2019, Health

The complainant has requested information relating to how the Care Quality Commission (the CQC) performs its role of ensuring that GP Practices are able to provide safe, effective, compassionate, high quality care to patients harmed by their experience of domestic abuse, racial abuse and discrimination. The complainant is concerned that the CQC has not complied with section 1(1), section 10(1), section 16(1) and section 17(1) of the FOIA. The Commissioner's decision is that the CQC has complied with its obligations under section 1(1), section 10(1), section 16(1) and section 17(1) of the FOIA. 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 16: Complaint not upheld FOI 1: Complaint not upheld

[Decision notice FS50721815](#)

[Dr Jefferies and Partners](#)

31 Jan 2019, Health

The complainant has requested information relating to a contract with 'Babylon and/or GP at Hand'. The Commissioner's decision is that Dr Jefferies and Partners (the surgery) was entitled to rely on section 43(2) of the FOIA to withhold part of the requested information. The Commissioner does require not the public authority to take any steps as a result of this decision notice.

FOI 43: Complaint not upheld

[Decision notice FS50749494](#)

[NHS England](#)

31 Jan 2019, Health

The complainant has requested information from NHS England about a staff 'away day' in Leeds on 20 September 2018. At the date of this notice, NHS England has not provided a response to the request. The Commissioner's decision is as follows: NHS England has breached section 10(1) of the FOIA as it has not provided a response to the request within 20 working days. The Commissioner requires NHS England to take the following step to ensure compliance with the legislation: Provide a response to the complainant's clarified request of 10 October 2018 that complies with the FOIA.

FOI 10: Complaint upheld

[Decision notice FS50805852](#)

[Kettering General Hospital NHS Foundation Trust](#)

30 Jan 2019, Health

The complainant requested information from Kettering General Hospital NHS Foundation Trust (the "Trust") about the number of people who have initiated employment tribunal proceedings against the Trust and number of people who have made whistleblowing allegations at the Trust in the last 5 years. The complainant revised his request and added to it by requesting information from the Trust about the legal team that represented the Trust. The Commissioner's decision is that the 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 Trust to respond to the complainant's request in accordance with the FOIA.

FOI 10: Complaint upheld

[Decision notice FS50810664](#)

[Cheshire & Wirral Partnership NHS Trust](#)

28 Jan 2019, Health

The complainant requested information regarding the legal ownership of a plot of land. The Commissioner's decision is that Cheshire & Wirral Partnership NHS Trust failed to respond to the request within 20 working days and has therefore breached Section 10 of the FOIA. As a response has now been issued, the Commissioner does not require the Trust to take any further steps.

FOI 10: Complaint upheld

[Decision notice FS50788695](#)

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

25 Jan 2019, Health

The complainant has made a request for information relating to contracts and change form. The Commissioner's decision is that NHS England 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 NHS England to provide the complainant with a response to the request in accordance with its obligations under the FOIA.

FOI 10: Complaint upheld

[Decision notice FS50804158](#)

[NHS England](#)

24 Jan 2019, Health

The complainant requested information relating to the amount of money that has been spent on commissioning non-NHS tier 4 mental health inpatient beds for young people. NHS England has failed to respond to this request. The Commissioner considers that NHS England 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 FS50801536](#)

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

22 Jan 2019, Health

The complainant has requested the legal advice received by NHS England (NHSE) following a meeting with a named doctor. NHSE identified information within the scope of the request but withheld this on the basis that the information was legally professionally privileged and therefore exempt under section 42 of the FOIA. The Commissioner's decision, after considering the public interest test, is that NHSE has correctly applied this exemption and the public interest favours withholding the requested information.

FOI 42: Complaint not upheld

[Decision notice FS50752392](#)

[Harrogate and District NHS Foundation Trust](#)

21 Jan 2019, Health

The complainant has requested a copy of a business case about the formation of an Alternative Services Delivery Model (ASDM) by Harrogate and District NHS Foundation Trust (the Trust) for estates and facilities management. The Trust provided redacted copies of the business case and its associated appendices and documents but withheld some information on the basis of section 43(2) of the FOIA. The Commissioner's decision is that the Trust has failed to demonstrate that disclosure of the remaining information from the business case would have any prejudicial effect on the commercial interests of any party and as such, she has found that the Trust has incorrectly applied the exemption. The Commissioner

requires the public authority to disclose all remaining information from the business case and its associated documents including the appendices and tables.

FOI 43: Complaint upheld

[Decision notice FS50735535](#)

[General Pharmaceutical Council](#)

21 Jan 2019, Health

The complainant has requested information from the General Pharmaceutical Council ('the GPhC') about service complaints submitted to it. The GPhC has categorised the request as vexatious under section 14(1) of the FOIA and has refused to comply with it. The Commissioner's decision is as follows: The request is not vexatious and the GPhC is not entitled to rely on section 14(1) to refuse to comply with it. The GPhC has not breached section 16(1) as, in the circumstances of the request, it provided appropriate advice and assistance. The GPhC complied with section 17(5) as it issued the complainant with a section 14(1) refusal notice within 20 working days. The Commissioner requires the GPhC to take the following step to ensure compliance with the legislation: Provide the complainant with a fresh response to his request of 25 June 2018 that complies with the FOIA but that does not rely on section 14(1).

FOI 17: Complaint not upheld FOI 16: Complaint not upheld FOI 14: Complaint upheld

[Decision notice FS50770959](#)

[Northumbria Healthcare NHS Foundation Trust](#)

16 Jan 2019, Health

The complainant has requested any information relating to the business case for the Northumbria Healthcare NHS Foundation Trust's (the Trust) buy out of the Hexham General Hospital's private finance initiative (PFI). The Trust withheld the information, citing section 43(2) (commercial interests) as its basis for doing so. The complainant is concerned about the Trust's reliance on section 43(2) and not complying with its obligations under section 16(1). During the Commissioner's investigation, the Trust disclosed some of the requested information to the complainant. It also revised its position in relation to one element of the withheld information, stating that it may be additionally exempt under section 42(1) (legal professional privilege) of the FOIA. However, it maintained its reliance on section 43(2) for refusing to provide the remaining withheld information. The Commissioner's decision is as follows; The Trust has complied with its obligation under section 16(1). The Trust has failed to comply with its obligations under section 10(1). Section 42(1) applies to one element of the withheld information. The Trust has not demonstrated that section 43(2) applies to the remaining withheld information. The Commissioner requires the Trust to disclose the withheld information other than that caught by section 42 to the complainant.

FOI 42: Complaint not upheld FOI 10: Complaint upheld FOI 43: Complaint upheld
FOI 16: Complaint not upheld

[Decision notice FS50711436](#)

[Royal Liverpool and Broadgreen University Hospitals NHS Trust](#)

14 Jan 2019, Health

The complainant has requested Clinical Pathology Accreditation (CPA) and/or the United Kingdom Accreditation Service (UKAS) reports/correspondence from 2016 to the date of his request for all laboratories under the Royal Liverpool and Broadgreen University Hospitals NHS Trust (RLBUHT) management concerning the revoking of laboratory accreditation. The Commissioner's decision is that Royal Liverpool and Broadgreen University Hospitals Trust (RLBUHT) has correctly applied section 43(2) of the FOIA to the requested information and that the public interest favours maintaining the exemption. However, the Commissioner's decision is that the RLBUHT 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 no steps to be taken.

FOI 43(2): Complaint not upheld FOI 10(1): Complaint upheld

[Decision notice FS50743982](#)

[NHS England](#)

10 Jan 2019, Health

The complainant has requested information relating to wide-scale health changes in North West London. He requested the supplementary assurances that were provided by North West London Collaboration of Clinical Commissioning Groups (NWL CCGs) in response to a letter 'Shaping a Healthier Future; Next Steps' that was sent to them by NHS England, dated 7 November 2017. NHS England refused to provide this information citing section 22 of the FOIA – information intended for future publication. The Commissioner's decision is that NHS England has correctly applied section 22 of the FOIA and that, at the time of the request, the balance of the public interest favoured maintaining the exemption. The Commissioner does not require any steps to be taken as a result of this decision notice.

FOI 22: Complaint not upheld

[Decision notice FS50751858](#)

[Oxford University Hospitals NHS Foundation Trust](#)

10 Jan 2019, Health

The complainant requested the number of surgeons, whose main residence is outside the EU, used by Oxford University Hospitals NHS Foundation Trust (the Trust) to perform operations at the Horton General Hospital over the financial year 2016/17, and up to 5 October 2017. The Trust confirmed that it held the requested information, and that the number was "0". The complainant considered that the information was wrong and that the number should be at least "1". The Commissioner's decision is that the Trust has provided the complainant with the information that it held at the time of the request. However, she has recorded a breach of section 1 and section 10 of the FOIA, as the Trust failed to respond to the request within 20 working days of receipt. The Commissioner does not require any further steps to be taken.

FOI 10: Complaint upheld FOI 1: Complaint partly upheld

[Decision notice FS50726715](#)

[Cardiff and Vale University Local Health Board](#)

7 Jan 2019, Health

The complainant has requested information relating to the contract most recently awarded for the provision of kidney dialysis services. Cardiff and Vale University Local Health Board (the UHB) disclosed some information but refused to disclose other information citing section 43 of the FOIA. It also confirmed that some of the requested information is not held. The Commissioner's decision is that the UHB is entitled to rely on section 43 of the FOIA for the non-disclosure of the remaining withheld information. She has however found the UHB in breach of section 10 of the FOIA, as it failed to respond to the complainant's request for information within 20 working days of receipt. The Commissioner does not require any further action to be taken.

FOI 10: Complaint upheld FOI 43: Complaint not upheld

[Decision notice FS50752638](#)

[NHS Nene Clinical Commissioning Group](#)

2 Jan 2019, Health

The complainant requested information from NHS Nene Clinical Commissioning Group ("the CCG") about names and job/role title of all the CCG staff. As a response has been issued, the Commissioner does not require the CCG to take any further steps.

FOI 10: Complaint upheld

[Decision notice FS50807824](#)