

Response issued under the Freedom of Information Act 2000

Our Reference: CQC IAT 1819 0226

Date of Response: 27 July 2018

Information Requested:

“1. How many complaints has the CQC received about Housing and Care 21 in each of the past 6 years?

2. How many of these were investigated and what was the outcome?

3. What steps are in place to ensure that elderly people living in their schemes are treated appropriately?

4. Is this body on a watch list?

5. How many inspections has the CQC made to premises operated by Housing and Care 21 in each of the past 6 years?

6. How many concerns were expressed at the findings after inspections were made?”

The Information Access team has now coordinated a response to your request.

CQC has considered your request in accordance with the Freedom of Information Act 2000 (FOIA).

Our main obligation under the legislation is to confirm whether we do or do not hold the requested information.

In accordance with section 1(1) of FOIA we are able to confirm that CQC does hold some recorded information in relation to this matter however some of this information is exempt from disclosure. Please see the “exemptions on disclosure” section below.

The purpose of FOIA is to ensure transparency and accountability in the public sector. It seeks to achieve this by providing anyone, anywhere in the world, with the right to access recorded information held by, or on behalf of, a public authority.

The main principle behind FOIA is that people have a right to know about the activities of public authorities, unless there is a good reason for them not to.

FOIA also recognises that there may be valid reasons for withholding information by setting out a number of exemptions from the right to know, some of which are subject to a public interest test.

Exemptions exist to protect information that should not be disclosed into the public domain, for example because disclosing the information would be harmful to another person or it would be against the public interest.

A public authority must not disclose information in breach of any other law.

When a public authority, such as CQC, refuses to provide information, it must, in accordance with section 17 of FOIA, issue a refusal notice explaining why it is unable to provide the information.

Housing & Care 21

Housing & Care 21 is a provider within the Adult Social Care directorate registered with CQC to provide the regulated activities of accommodation for persons who require nursing or personal care; and personal care. There are currently 68 active locations registered with CQC.

You can find out more information about Housing & Care 21 and its locations on our website at:

www.cqc.org.uk/provider/1-102643148

1. How many complaints has the CQC received about Housing and Care 21 in each of the past 6 years?

CQC does not formally handle or investigate complaints about the care services we regulate.

However, we do often receive information of concern, either from members of the public, people who use services or their relatives, or staff. The contact we have with others is recorded on our Customer Relationship Management (CRM) system. Enquiries can be recorded under different categories.

Information of concern is currently logged by CQC in three different ways:

1. As an information of concern enquiry
2. As a safeguarding enquiry
3. As a whistleblowing enquiry

The information can either be logged against the provider (i.e. Housing & Care 21) or against the individual location to which the concern relates.

More detailed information relating to how we handle information of concern is provided for you in the attached document, '*Complaints and how we deal with them*'.

In addition, information about how to raise a concern about a provider is available on the CQC website at:

www.cqc.org.uk/contact-us/how-complain/complain-about-service-or-provider

Information of concern

Information recorded as 'other information of concern' could constitute information received from members of the public that does not fall into the categories of safeguarding or whistleblowing, as explained below. It could be information received from providers that is not required to be supplied as a statutory notification, and information from other organisations that will be recorded for the purpose of our regulatory function.

Safeguarding

Safeguarding is a key priority for CQC. Our work to safeguard children and adults reflects both our focus on human rights and the requirement within the Health and Social Care Act 2008 to have regard to the need to protect and promote the rights of people who use health and social care services.

Safeguarding means protecting people's health, wellbeing and human rights, and enabling them to live free from harm, abuse and neglect. It is fundamental to creating high-quality health and social care.

We monitor how well providers are doing this by assessing the quality and safety of care they provide, based on things that people tell us matter to them. The fundamental standard on safeguarding is set out within the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014.

CQC check that care providers have effective systems and processes to help keep children and adults safe from abuse and neglect. If necessary, we refer safeguarding issues to the local authority who have the local legal responsibility for safeguarding. It is not the role of CQC to investigate abuse but we will refer concerns to local councils and/or the police for further investigation.

You can find out more information about our role in safeguarding on our website at:

www.cqc.org.uk/what-we-do/how-we-do-our-job/safeguarding-people

The Care Act 2014 implemented duties for local authorities to undertake or ask others to undertake enquiries when they receive information that relates to an

adult at risk. The duties include the setting up of a local Safeguarding Adults Board and the development of multi-agency safeguarding policy and procedures. More information on their role is available in the below guidance, under the “safeguarding” tab:

www.gov.uk/government/publications/care-act-statutory-guidance/care-and-support-statutory-guidance

When we receive information relating to safeguarding people, it is recorded as an alert or as a concern.

Safeguarding information is recorded as an alert when:

- CQC is the first statutory agency to receive the information about actual or alleged abuse or neglect; and/or
- CQC will or may need to take immediate regulatory action as a result of the information

Information is treated as a safeguarding concern when:

- CQC is not the first statutory agency to receive the information; and
- There is no need for CQC to take immediate regulatory action

CQC also receive information from regulated services through statutory notifications of abuse. Statutory abuse notifications from providers represent what providers have identified as abuse or neglect. At the same time as a provider notifies CQC, they should also be telling the local authority and/or the police if it is thought a crime has been or may have been committed. A statutory notification may be made to notify CQC of concerns relating to another regulated service or one which we do not. Statutory notifications of abuse can also be made about incidents involving people in receipt of the service who the provider believes has been harmed or is at potential risk of abuse or neglect by others e.g. family or friends.

The number of statutory notifications received from any one provider may be a positive indicator they are identifying harm either within their own service, in other regulated or non-regulated services or by family members or friends. Until 1 March 2018 we automatically created safeguarding concerns from these records. This was a historical internal process which created duplication and has been removed. For more information on statutory notifications, please visit:

www.cqc.org.uk/sites/default/files/documents/statutory_notifications_for_nhs_bodies_-_provider_guidance_v6.pdf

www.cqc.org.uk/sites/default/files/20161101_100501_v7_guidance_on_statutory_notifications_ASC_IH_PDC_PA_Reg_Persons.pdf

Whistleblowing

The term 'whistleblower' may be used to describe people who make a 'qualifying disclosure' about a concern at work. The Employment Rights Act 1996 defines a 'qualifying disclosure' with reference to the information's relationship to the public interest and specified areas of potential damage or harm. Whistleblowing can cover any risk, malpractice or wrongdoing that affects patients, the public, other staff or the provider itself.

Ideally, such concerns should be dealt with by the employer. However, if the management have not dealt with those concerns by responding appropriately to them, perhaps by using the employer's own whistleblowing policy, or the worker does not feel confident that the management will deal with those concerns properly, they can instead make a disclosure to a 'prescribed body', such as a regulator like CQC.

More information about members of staff reporting a concern can be found here:

www.cqc.org.uk/contact-us/report-concern/report-concern-if-you-are-member-staff

Your request

Since 1 January 2012, there have been 328 logged "information of concern" enquiries relating to Housing & 21 Care and any of its locations. There have been 150 whistleblowing enquires. Finally, there have been 29 safeguarding "alerts" and 2504 "concerns".

2. How many of these were investigated and what was the outcome?

We consider this information exempt under section 12 of the Freedom of Information Act due to cost. As mentioned above, since 1 January 2012 there have been 328 information of concern enquiries logged, 150 whistleblowing enquiries and 2,533 safeguarding records related to Housing & Care 21 and any of its locations.

To determine whether any of these concerns were investigated and what the outcome was would require a manual check of each individual record. With over 3000 records to check, this would exceed the time and cost limit prescribed under FOIA. For more detail about this exemption, please see the "exemption on disclosure" section below.

3. What steps are in place to ensure that elderly people living in their schemes are treated appropriately?

Housing & Care 21 is a registered provider with multiple locations throughout the UK. It is also the landlord of many Sheltered Housing and Extra Care Schemes in England. Services are only required to register with CQC if they are carrying out one or more regulated activities.

Regulated activities are listed in Schedule 1 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014. They are:

- Personal care
- Accommodation for person who require nursing or personal care
- Accommodation for persons who require treatment for substance misuse
- Treatment of disease, disorder or injury
- Assessment or medical treatment for persons detained under the Mental Health Act 1983
- Surgical procedures
- Diagnostic and screening procedures
- Management of supply of blood and blood-derived products
- Transport services, triage and medical advice provided remotely
- Maternity and midwifery services
- Termination of pregnancies
- Services in slimming clinics
- Nursing care
- Family planning services

In relation to your request, the schemes themselves are not registered with CQC as they do not fall within CQC's regulatory remit.

Housing & Care 21 provides the regulated activities of personal care at 68 extra care schemes (locations) and accommodation for persons who require nursing or personal care at one care home; they are the landlord in most of the extra care schemes, but not all of them. CQC does not regulate the scheme itself, but rather the regulated activity.

Every location that a regulated activity is provided at is inspected by CQC and rated by inspectors in our Adult Social Care directorate. On inspection we ask five key questions of all services: Are they safe? Are they effective? Are they caring? Are they responsive to people's needs? Are they well-led?

You can find out more information about how we do our job on our website at:

www.cqc.org.uk/what-we-do/how-we-do-our-job/five-key-questions-we-ask

At present, 97% of Housing & Care 21's locations are rated as good. The inspection does not include the environment – only the regulated activities of personal care at all locations and accommodation for persons who require nursing or personal care at one location as this is the element that is within CQC's regulatory remit.

4. Is this body on a watch list?

CQC does not have a “watch list”. Once a service has registered with us, we monitor them continuously. The information we gather helps us to see how services are performing between inspections.

We carry out regular checks on health and social care services. We call these comprehensive inspections and we use them to make sure services are providing care that's safe, caring, effective, responsive to people's needs and well-led.

We also carry out focused inspections. These are smaller in scale than comprehensive inspections, although they follow a similar process. We may carry out a focused inspection to look at something we are concerned about, which may have been raised during a comprehensive inspection or through monitoring work. Also, if there has been a change in a care provider's circumstance, we may carry out a focused inspection.

If we find that care has fallen short of this, we use our powers to take action against those responsible. In relation to your request, there is no “watch list” however if we find that a provider is not delivering the quality of care to be expected, CQC may issue an enforcement action which requires or forces improvement. For example, issuing a Requirement Notice notifies a provider that we consider they are in breach of legal requirements and should take steps to improve care standards. The provider is then required to send us a report in the timescale set out in the Requirement Notice so that we can ensure improvement is made. Failing to do so is an offence and could lead to us using other enforcement powers.

You can read more information about what enforcement powers and action we can take as the independent regulator of health and social care in our enforcement policy:

www.cqc.org.uk/sites/default/files/20150209_enforcement_policy_v1-1.pdf

5. How many inspections has the CQC made to premises operated by Housing and Care 21 in each of the past 6 years?

CQC has conducted 422 inspections of Housing & Care 21 locations since 1 January 2012.

Inspections taken per year						
2012	2013	2014	2015	2016	2017	2018
96	132	68	24	59	38	5

6. How many concerns were expressed at the findings after inspections were made?

To determine whether any concerns had been raised with CQC about the findings of any of the inspections carried out, we would need to manually review enquiries and complaints. We do not record information in such a way that we could easily extract specific enquiries as described in your request.

As mentioned above in response to point 2, responding to this request would exceed the appropriate limit under FOIA. When the cost exemption is engaged, a public authority is not required to respond to any part of a request for information.

Exemption on disclosure

Section 12 Requests where the cost of compliance exceeds the appropriate limit set out in the Act

We consider that some of the information requested is currently exempt under section 12 of the FOIA. Section 12 of FOIA applies where the cost to CQC of complying with any individual request would exceed £450. In such cases, CQC is allowed to refuse to comply with the request for information.

Section 12 states:

“(1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.”

As a public authority we wish to be transparent and open about our work, but we have a statutory responsibility to use our resources effectively.

Section 2(3) of schedule 1 of the Health and Social Care Act 2008 states that “It is the duty of the Commission to carry out its functions effectively, efficiently and economically.”

A public authority, such as CQC, is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

In calculating whether this appropriate limit is exceeded, regulation 4(4) of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 requires that the time taken in responding to requests (locating, retrieving and extracting the information) must be calculated at a rate of £25 per person per hour.

The only way to determine what investigations had been taken following concerns raised or whether concerns had been raised with CQC in response to the findings of inspections would be to manually check individual records.

Given the scope of your request we estimate it will take far longer than 18 hours and cost more than £450 to perform an interrogation of all of the records held to gather the requested information and formulate a response to your request.

In fact, to conduct such an exercise would far exceed the appropriate limit; currently £450 or 18 hours, as defined under regulation 3(3) of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

CQC does not consider conducting such a search of our records to be an effective and efficient use of our limited resources.

In accordance with section 12 of FOIA, CQC chooses not to conduct such an exercise because of the high cost involved.

This response acts as a refusal notice in accordance with FOIA.

Use of this exemption does not require a public interest test.

In making the decision we have referred to guidance published on the Information Commissioner's Office (ICO) website:

www.ico.gov.uk/for_organisations/freedom_of_information/guide.aspx

Advice and assistance

Under section 16 of the Freedom of Information Act 2000 (and in accordance with the section 45 code of practice) we have a duty to provide you with reasonable advice and assistance.

We can advise that the provider Housing & Care 21 has had 197 locations registered with CQC. To refine your request, you may wish to focus on a specific location or a short time scale and then we would more likely be able to comply with your request for information.

If you need any independent advice about individual's rights under information legislation you can contact the Information Commissioner's Office (ICO).

The ICO is the UK's independent authority set up to uphold information rights in the public interest, promoting openness by public bodies and data privacy for individuals.

The contact details for the ICO are detailed below.

There is useful information on the ICO website explaining how individuals can access official information:

www.ico.org.uk/for-the-public/official-information

CQC Complaints and Internal Review procedure

If you are not satisfied with our handling of your request, then you may request an internal review.

Please clearly indicate that you wish for a review to be conducted and state the reason(s) for requesting the review.

Please be aware that the review process will focus upon our handling of your request and whether CQC have complied with the requirements of the Freedom of Information Act 2000. The internal review process should not be used to raise concerns about the provision of care or the internal processes of other CQC functions.

If you are unhappy with other aspects of the CQC's actions, or of the actions of registered providers, please see our website for information on how to raise a concern or complaint:

www.cqc.org.uk/contact-us

To request a review please contact:

Information Access
Care Quality Commission
Citygate
Gallowgate
Newcastle upon Tyne
NE1 4PA

E-mail: information.access@cqc.org.uk

Further rights of appeal exist to the Information Commissioner's Office under section 50 of the Freedom of Information Act 2000 once the internal appeals process has been exhausted.

The contact details are:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Telephone Helpline: 01625 545 745
Website: www.ico.org.uk