

**Response issued under the Freedom of Information Act 2000**

**Our Reference:** CQC IAT 2021 0112

**Date of Response:** 27 July 2020

**Information Requested:**

***In the Patients Association's accounts for 2018 it states:***

***"We can also refer serious cases to the Care Quality Commission (CQC) on behalf of a family, giving them anonymity if they wish, whilst ensuring that action is taken by the CQC to improve patient safety or bring action against a care provider if necessary." (page 3)***

- 1. Please provide the number of cases referred to you by the Patients Association in each of financial years 2016/17, 2017/18, 2018/19 and 2019/20.***
- 2. Please state how many of the referrals in each specified year you investigated.***
- 3. Please state how many of the referrals in each specified year resulted in action being taken against a care provider."***

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 first 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 recorded information in relation to this matter.

**'Tell us about your care' partnerships**

We work with several national charities to gather feedback from people who contact them about their experiences of care. We call these 'Tell us about your care' partnerships and they are funded partnerships. The information CQC receives from Patients Association referred to in your request, has been supplied

under that funded partnership. It is important to note we receive positive experiences of care as well as negative experiences through our partnership with Patients Association. The information is supplied to CQC via our online feedback form, currently known as Give Feedback on Care form - [www.cqc.org.uk/give-feedback-on-care](http://www.cqc.org.uk/give-feedback-on-care). Online feedback forms can be completed by Patients Association staff on behalf of individuals, or by individuals themselves who are made aware of the form through contact with the Patients Association. Further information about our 'Tell us about your care' partnerships is available on our website:

[www.cqc.org.uk/get-involved/share-your-experience/tell-us-about-your-care-partnerships](http://www.cqc.org.uk/get-involved/share-your-experience/tell-us-about-your-care-partnerships)

### Your request

1. ***“Please provide the number of cases referred to you by the Patients Association in each of financial years 2016/17, 2017/18, 2018/19 and 2019/20.”***

The data listed below refer to the number of online feedback forms we have received for each of the years:

2016/17 – 947  
2017/18 – 519  
2018/19 – 371  
2019/20 – 275

2. ***“Please state how many of the referrals in each specified year you investigated.”***
3. ***“Please state how many of the referrals in each specified year resulted in action being taken against a care provider.”***

We will not be able to provide you with the requested information. Each of the feedback forms received is reviewed individually by our compliance inspectors who oversee the service the feedback relates to.

It is also important to note that we do not have statutory powers to investigate individual complaints; we do, however, assess the information that we receive to determine whether the registered services are compliant with the regulations listed in the [Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014](#) – also known as the fundamental standards.

To prevent poor care happening to others in the future we may undertake a number of regulatory activities in response to information of concern. Information of concern includes a wide range of intelligence in addition to what we receive through partnerships with organisations like Patients Association. Inspectors make decisions about regulatory activities required in response to all the

intelligence they hold about a service. The range of regulatory activities we could undertake includes:

- Using the information to inform an inspection currently in progress.
- Contacting the local authority or police who have responsibility for providing an initial response to individuals who are at immediate risk of harm or abuse.
- Contacting the provider to clarify facts.
- Contacting other agencies (for example, local commissioners) to share information and clarify facts.
- Using the information to help inform future inspections.
- Carrying out a responsive inspection.
- Bringing forward a planned inspection.

Everybody has the right to receive safe, high-quality care. If we find that care has fallen short of this, we use our powers to take action against those responsible.

The action we can take includes:

- Using requirement notices or warning notices to set out what improvements the care provider must make and by when.
- Making changes to a care provider's registration to limit what they may do, for example by imposing conditions for a given time.
- Placing a provider in special measures, where we closely supervise the quality of care while working with other organisations to help them improve within set timescales.
- Hold the care provider to account for their failings by issuing simple cautions, issuing fines, and prosecuting cases where people are harmed or placed in danger of harm.

For more information about the actions we can take, please visit:

[www.cqc.org.uk/what-we-do/how-we-do-our-job/taking-action](http://www.cqc.org.uk/what-we-do/how-we-do-our-job/taking-action)

We will not be able to determine how many of the referrals resulted in further action without reviewing each individual piece of feedback and contacting the relevant inspector. Conducting such task would exceed the cost limit set out in section 12 of the FOIA, and therefore we consider the requested information exempt from the right to know.

The exemption is explained in more detail in the section 'Exemptions from the right to know'.

## **Exemption from the right to know**

### **Section 12 The Cost of compliance exceeds the appropriate limit set out in the Act**

Section 12 of the FOIA applies where the cost to a public authority of complying with any individual request would exceed £450. In such cases, the public authority is allowed to refuse to comply with the request for information.

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. Therefore, any requests where it would take over 18 hours to locate, retrieve and extract the information would exceed £450.

CQC estimates that to manually review in excess of 2000 feedback form to determine what action we took would grossly exceed the appropriate limit.

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

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

### **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 may be able to provide you with some of the information for point 3 if you were to significantly narrow down the scope of your request. We may be able to do so for a random sample of up to 25 feedback forms, or for a specific two-week period in a chosen financial year. If you wish for us to carry out such search, please submit a revised request. Please note that the revised request may still be subject to exemptions under the FOIA.

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 the rights of individuals:

[www.ico.org.uk/your-data-matters](http://www.ico.org.uk/your-data-matters)

### **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 note that it is usual practice to accept a request for an internal review within 40 working days from the date of this response. The [FOIA code of practice](#) advises that public authorities are not obliged to accept internal reviews after this date.

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](http://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@cgc.org.uk](mailto:information.access@cgc.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: 0303 123 1113

Website: [www.ico.org.uk](http://www.ico.org.uk)