

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

Our Reference: CQC IAT 2013 0135

Date of Response: 1 March 2013

Information Requested:

“Please provide the following information for all nursing and domiciliary care agencies within England and Scotland.

I request a list of names and email addresses for all agencies within England and Scotland.

Please provide the information in a spreadsheet.”

The Information Access Team can confirm that CQC hold some, but not all of the requested information, and that we consider that some information is exempt from disclosure.

We can provide you with a list of domiciliary and nursing agencies in England- please see the attached spreadsheet.

However, as the regulator of health and adult social care providers in England only, Care Quality Commission does not hold information of this nature for Scotland.

In Scotland, social care providers are regulated by Care Inspectorate and you can find their contact details at <http://www.careinspectorate.com>.

Health care providers are regulated by Healthcare Improvement Scotland- <http://www.healthcareimprovementscotland.org/home.aspx>.

Also, CQC can not provide you with email addresses for providers.

It may be helpful to explain to you the purpose of the Freedom of Information Act 2000. The purpose of the Act 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 any recorded information held by, or on behalf of, a public authority.

A disclosure under the Act is described as “applicant blind” meaning that disclosure under Freedom of Information is a disclosure into the public domain and not to any one individual.

The Act 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.

We consider that the email addresses of providers to be subject to exemptions from the right to know under Section 21, 40(2) and 41(1) of the Act.

CQC and our regulatory function

In the course of our regulatory function, CQC receives contact e-mail addresses of the care services we regulate.

In accordance with section 38 of the Health and Social Care Act 2008, CQC is required to provide copies of our registers to the public.

We do this through our "latest checks" care directory and the csv file in the "Use our data" sections of our website. These are available via these links:

<http://www.cqc.org.uk/>

<http://www.cqc.org.uk/cqcdata>

The Health and Social Care Act 2008 does not make any requirement that e-mail addresses are provided as part of this register. CQC has taken the decision that we do not publish e-mail addresses of the care services that are registered with us.

When individuals and providers apply to be registered with CQC they provide their contact details with an expectation that CQC will only use the information in relation to registration and monitoring of compliance with the relevant regulations and government standards.

The individuals and providers would therefore have a reasonable expectation that CQC would only use their e-mail addresses for those purposes and would not disclose their e-mail addresses into the public domain under Freedom of Information.

When individuals and providers apply to become registered with CQC they are required to submit a relevant registration application.

We include a statement on the Data Protection Act 1998 within our application form which explains how we will use the personal data that is supplied.

The statement specifically advises that we will use the information provided for the purposes of performing our regulatory functions. This includes our assessment of the registration application and, if the registration is subsequently approved, our ongoing monitoring of compliance with the relevant regulations and government standards.

This statement acts as a privacy notice explaining how we will process the personal data of the individuals named within any application.

The Data Protection Act 1998 regulates the use of "personal data" and the processing of that data. There are eight Data Protection principles which are listed with schedule 1 of the Data Protection Act 1998.

We believe that release of e-mail addresses relating to the care services we regulate would potentially be a breach of principles 1, 2 and 6 (where personal data is contained within those e-mail addresses, i.e. xxxx.xxxxx@xxxxxxx.xx.xx or xxxxxxxxx@xxxxxxxxxxxxxx.xx.xx).

Exemptions

S40(2) of the Freedom of Information Act 2000

The Commission considers this information to be subject to the exemption from disclosure under section 40(2) of the Act, because it is personal data relating to another individual.

This exemption applies in any case where disclosure of the requested information into the public domain would be a breach of any of the Principles of the Data Protection Act 1998. In particular, the first Principle requires that disclosure of the information must be fair and lawful.

The Commission considers that it would be a breach of the Principles of the Data Protection Act 1998 to disclose the requested information because the persons to whom the information relates would have a reasonable expectation that it would not be disclosed to a member of the public and disclosure is likely to be a breach of their privacy or rights.

No public interest test is required for this exemption.

Section 41(1) of the Freedom of Information Act 2000

We consider the e-mail addresses provided to CQC to be given with an expectation of confidentiality and the exemption from the right to know provided at section 41(1) of the Freedom of Information Act 2000 to be engaged.

Section 41(1) states:

***“(1)Information is exempt information if—
(a)it was obtained by the public authority from any other person (including another public authority), and
(b)the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.”***

Section 41 can apply where information has been obtained in confidence and where disclosure could constitute an actionable breach of confidence.

A duty of confidence arises when one person (the “confidant”) is provided with information by another (the “confider”) in the expectation that the information will only be used or disclosed in accordance with the wishes of the confider. If there is a breach of confidence, the confider or any other party affected (for instance a person whose details were included in the information confided) may have the right to take action through the courts.

As explained above, when the individual or provider supplies their contact details to CQC, there is an explicit expectation that CQC will only use this information for the purposes of registration and compliance.

In addition, CQC does not publish the e-mail addresses of care services that are registered with us. If we did decide to publish the e-mail addresses we would need to seek the consent of each and every one of the registered care services. These number in the tens of thousands therefore any such exercise would be extremely time consuming and use an extensive amount of our limited resources.

Section 21(1) of the Freedom of Information Act 2000

We consider some of the e-mail addresses to be reasonably accessible to you by other means.

Section 21(1) states:

“Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.”

Some providers publish their contact e-mail addresses on their websites; you can access these websites from the spreadsheet you have already accessed on our website. You can then visit the website of each provider to determine what their contact e-mail address is.

CQC Complaints Procedure:

If you are not satisfied with the information that you have been provided then you may request a review of the Commission’s handling of your information request. Please clearly indicate that you wish for a review of your information request and it would be helpful if you could state the reason for requesting the review.

Please be aware that this review process will focus upon our handling of your information request and should not be used to raise further concerns about the provision of care or the internal processes of other CQC functions.

If you are unhappy with other aspects of the Commission's actions, or of the actions of registered providers, please see our website for information on how to raise a concern or complaint. <http://www.cqc.org.uk/contact-us>

Internal Review of your Freedom of Information Request:

To request a review please contact:

Legal Services & Information Rights
Care Quality Commission
Citygate
Gallowgate
Newcastle upon Tyne
NE1 4PA

xxxxxxxxxx.xxxxxx@xxx.xxx.xx

Further rights of appeal exist to the Information Commissioner's Office (www.ico.gov.uk) once the internal appeals process has been exhausted.

The contact details are: -

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

Telephone Helpline: 0303 123 1113