

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

**Our Reference:** CQC IAT 1516 0162

**Date of Response:** 13 July 2015

**Information Requested:**

***“Freedom of Information request - Information on Intrim Medical and Rescue Services***

***Due to the fact that your Inspector fails to understand she is a public servant and has no authority to withhold public information from a member of the public, I require you to furnish me with;***

- 1. The reasons you have revoked the authority of Intrim Medical and Rescue Services to carry out regulated activities***
- 2. The number and nature of all concerns reported to CQC about Intrim Medical & Rescue Services Limited***
- 3. Whether patients were harmed***
- 4. Whether there are other enforcing authorities ie police currently investigating***
- 5. Please state the name and professional qualification of the inspector(s) who have conducted inspections and initiated enforcement action”***

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).

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. Public authorities spend money collected from taxpayers, and make decisions that can significantly affect many people's lives. Access to information helps the public make public authorities accountable for their actions and allows public debate to be better informed and more productive.

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.

A public authority, such as CQC, is required to inform an applicant whether it holds the requested information specified in their request. This is known as the duty to “confirm or deny”.

In most cases the public authority will comply with this duty by responding informing the applicant whether or not it holds the information. In most cases the public authority will go on to consider whether information should be provided or whether it is subject to an exemption from the right to know (FOIA 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).

However there may be occasions when complying with the duty to confirm or deny would in itself disclose sensitive or potentially damaging information that falls under an exemption. In these circumstances FOIA allows a public authority to respond by refusing to confirm or deny whether it holds the requested information. This is called a “neither confirm nor deny” response.

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

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.

### **Intrim Medical and Rescue Services Regional HQ and Training Centre**

‘Intrim Medical and Rescue Services Regional HQ and Training Centre’ is registered with CQC as location of care in accordance with the Health and Social Care Act 2008.

CQC has published information (including inspection reports) about this location on our website:

[www.cqc.org.uk/location/1-2054605689](http://www.cqc.org.uk/location/1-2054605689)

The registered provider of this location is 'Intrim Medical & Rescue Services Limited'.

We use the term “registered provider” to mean the legal entity responsible for carrying on the health or adult social care services we regulate. The legal entity can be one of three types of provider: individuals, partnerships or organisations.

A “location” is a place in which, or from which, regulated activities are provided or managed.

### **Your request for information**

We will now respond to each part of your request in turn.

#### ***“1. The reasons you have revoked the authority of Intrim Medical and Rescue Services to carry out regulated activities”***

Our website confirms that *“Action is being taken against this provider.”* and further states *“Intrim Medical and Rescue Services Limited is currently subject to an order cancelling its registration and is not permitted to carry on any regulated activities. This cancellation order is open to appeal.”*

We can confirm that CQC has conducted an inspection of this provider and its registered location of care in May this year.

We have found a breach in the regulations which we have considered serious enough to propose to cancel the registration of this provider.

One of the powers available to us where we identify poor care or a breach in the regulations is to cancel registration.

We consider cancellations of registration if we assess that the registered person does not have the capability or the capacity to substantially comply with the regulations, or is likely to fail to do so.

Our [enforcement policy](#) sets out in full the approach that we take to address breaches of regulations:

[www.cqc.org.uk/content/enforcement-policy](http://www.cqc.org.uk/content/enforcement-policy)

Registered persons have the right to appeal to the First-tier Tribunal (Care Standards) against enforcement action using the civil enforcement procedures.

We are unable to provide you with the precise reasons as to why we have proposed to cancel the registration of this provider at this point in time.

The reason for this being that where CQC proposes to cancel a registration, the registered provider legally has a right to make a representation about our proposed enforcement action, before we decide whether to adopt our proposed action and serve a notice of decision. Registered providers can also appeal to an independent tribunal about our notices of decision.

CQC is legally prohibited from revealing any details of our proposed action whilst the representation process is ongoing.

Section 89 of the Health and Social Care Act 2008 makes provision for the publication of information relating to enforcement. Schedule 2 (Part 1 and Part 2) of the Care Quality Commission (Registration) Regulations 2009 sets out in detail what information in relation to enforcement action that must or may be published, and when it may be published. This means that unless the information in question comes within the definitions contained in Schedule 2, we cannot publish it at all, and that we can only publish it within the time scales set out.

The relevant parts of the legislation are

*“5. Paragraphs 1 and 3 do not apply, and **the information** prescribed in that paragraph **must not be published**, where an appeal is brought under section 32 of the Act and the First-tier Tribunal has directed that the Commission’s decision is not, or is to cease, to have effect, or the order made by a justice of peace is to cease to have effect.*

*6. Paragraph 2 does not apply, and **the information** prescribed in that paragraph **must not be published**, where an appeal is brought against a conviction for an offence under Part 1 of the Act and the conviction is quashed.*

*7. Paragraph 4 does not apply, and **the information** prescribed in that paragraph **must not be published**, where a penalty notice is withdrawn in accordance with regulations made under section 87(1)(e) of the Act after the penalty has been paid but before publication of the information prescribed in paragraph 4.*

13.

*2) Before publishing the information prescribed under sub-paragraph (1), the Commission must—*

*(a) provide the person to whom the notice was given an opportunity to make representations to the Commission relating to the matters dealt with in the notice; and*  
*(b) take any such representations into account when determining whether to publish the prescribed information."*

We therefore consider the exemption from the right to know provided at section 44(1)(a) of FOIA to be engaged.

Section 44(1)(a) states:

***"Prohibitions on disclosure.***

***(1) Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it—***

***(a) is prohibited by or under any enactment,"***

Section 44 is an absolute exemption which means that if information is covered by any of the subsections in section 44 then it is exempt from disclosure under FOIA.

No public interest test is required for this exemption.

As previously stated, we are unable to provide you with the precise reasons as to why we have proposed to cancel the registration of this provider at this point in time.

We will publish our findings of our inspection once our checks are complete and once any appeals process has been exhausted.

Our [enforcement policy](#) confirms on page 33:

*"The regulations require and authorise us to publish certain information relating to enforcement action.*

*We are required by law to publish certain details of civil and criminal enforcement. We are also required by law to publish details of any action taken under CQC's urgent powers.*

*Information about the enforcement action that we take will be included in our inspection reports. We will also publish on our website, a summary of information about the enforcement action taken against each provider and information about our enforcement activity overall.*

*We send copies of notices relating to enforcement action to a number of third parties, such as commissioners and other regulators. Generally, these notifications are required in the Care Quality Commission (Registration) Regulations 2009, but we will also inform any other persons that we consider appropriate.*

*We will notify commissioners whenever our activity has an impact on the capacity or configuration of a health and social care economy. Where changes to capacity or configuration are made as a result of our findings but without formal enforcement – for example, if a provider makes rapid changes and we decide that enforcement would no longer be proportionate – we will still endeavour to always notify commissioners.”*

CQC has published information about enforcement action and representations on our website:

[www.cqc.org.uk/content/enforcement-action-and-representations](http://www.cqc.org.uk/content/enforcement-action-and-representations)

We also consider any information relating to our inspection to be subject to the exemption from the right to know provided at section 31(1)(g) of FOIA as it relates to 31(2)(c) of FOIA.

Please refer to our detailed explanation of this exemption under the heading titled “Section 31 – Law enforcement” below.

***“2. The number and nature of all concerns reported to CQC about Intrim Medical & Rescue Services Limited***

***3. Whether patients were harmed”***

Contact from the people who interact with us (members of the public, professionals, providers, whistle blowers and so forth) is recorded on our Customer Relationship Management (CRM) system. Contact (in the form of e-mail or hard copy correspondence and telephone calls) is recorded in individual enquiries contained within the CRM system.

Enquiries can be recorded under different categories, types and sub types.

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

Whistleblowing is the term used when someone who works for an employer raises a concern about malpractice, risk (for example about patient safety), wrongdoing or possible illegality, which harms, or creates a risk of harm, to people who use the service, colleagues or the wider public.

There are six enquiries recorded with a category of “information of concern” for the registered provider, [‘Intrim Medical & Rescue Services Limited’](#) and its current registered location of care, [‘Intrim Medical and Rescue Services Regional HQ and Training Centre’](#), and its previous registered location of care, [‘Intrim Medical & Rescue Services’](#).

There are three enquiries recorded with a category of “safeguarding” for the registered provider, [‘Intrim Medical & Rescue Services Limited’](#) and its previous registered location of care, [‘Intrim Medical & Rescue Services’](#).

There are no enquiries recorded with a category of “whistleblowing”.

The concerns raised with CQC included:

- patients being injured during transport,
- inadequate around staff training and poor attitude,
- unsafe “blue-light” driving,
- inadequate pre-employment checks,
- performing regulated activities outside of CQC registration,
- use of out of date supplies,
- attending another provider’s call-outs,
- carrying of inappropriate personal protective devices by staff,
- lack of professional medical advice to the provider,
- Inappropriate use of restraint.

CQC considers the recorded information we hold specific to each of the enquiries to be exempt from the right to know under the Freedom of Information Act 2000 for a number of reasons. These are:

- Section 76 of the Health and Social Care Act 2008 makes it a criminal offence for CQC to disclose confidential personal information
- Parts of the information is subject to the common law duty of confidentiality
- Parts of the information constitute the personal data of individuals and as such disclosure into the public domain under FOIA would breach one or more of the principles of the Data Protection Act 1998
- Disclosure of the information may discourage individuals from providing information to CQC in the future, and in turn harm our regulatory function of determining whether care services are compliant with the relevant regulations and standards

The full legal explanation of each relevant exemption is explained further within this response.

We are unable to provide an answer to part 3 of your request. There is no recorded information advising whether any “patient” was harmed for the enquiries we have recorded.

***“4. Whether there are other enforcing authorities ie police currently investigating”***

We can neither confirm nor deny holding any recorded information in relation to this matter.

CQC is unable to confirm or deny holding information specific to any investigations that other public authorities may or may not be conducting in response to an FOIA request (which is effectively a disclosure made into the public domain and the world at large).

If CQC are involved in or have been made aware of any other investigations by other public authorities, we would participate with an expectation that any information we receive would be held in the strictest confidence.

Other public authorities would not expect another public authority, such as CQC, to confirm or deny that we hold information about any investigations they may or may not be conducting. The duty to confirm or deny under FOIA is excluded if compliance with that duty would, or would likely to, prejudice any of the matters mentioned at section 31(1) of FOIA.

As such, we would the exemption provided at section 31(3) of FOIA to be engaged.

This is because the Commission considers that the ability of other public authorities to conduct their regulatory functions is important to ascertain whether any person has failed to comply with the law; to ascertain whether any person is responsible for conduct which is improper; to ascertain whether circumstances would justify regulatory action in pursuance of any enactment and so forth.

Disclosure of information regarding other investigations may prejudice the regulatory functions of other public authorities and would therefore be subject to the exemption from disclosure under Section 31(1)g of FOIA.

In applying section 31 a public interest test is required.

In conducting this test we have considered that there is a public interest in knowing that the public authorities are carrying out their public functions and that disclosure may increase public confidence.



Against this we have considered that it is not in the public interest for information to be made public before any investigations have been completed as this may prejudice the functions of other public authorities. Knowledge of investigations could affect the outcome of investigations and/or prejudice the prevention or detection of crime, which could in turn have an effect on services received by the general public.

Having considered all of the above factors, it is CQC's view that it is in the public interest to neither to confirm nor deny holding the requested information for part 4 of your request.

It could potentially be prejudicial to the regulatory functions of other public authorities to reveal any information relating to any potential investigation they are conducting – or even whether such matters were being pursued – until the completion of any investigation and until relevant processes of representations and appeals had been completed. Such a disclosure would also breach natural justice and could be unjustly harmful to the rights and interests of individuals, and would create a significant risk of legal challenge.

If CQC adopted the practice whereby we applied an exemption from disclosure in cases where we were aware of any action being taken by other public authorities, but confirmed that we did not hold relevant information where no action was ongoing, then we would reach a situation whereby any application of the exemption would be taken as confirmation of action, and would therefore – in itself – be prejudicial.

Therefore we consider that it would be against the public interest to disclose whether or not we are aware of any other public authorities' investigations, prior to the lawful and appropriate publication of that information.

As such (and in accordance with sections 31(1)(a) and 31(1)(g) and 31(3) of FOIA) we can neither confirm nor deny whether we hold any recorded information in relation to part 4 of your request.

Please note that this is a standard statement, and should not be taken to infer anything regarding the registered provider or the services that it provides.

***“5. Please state the name and professional qualification of the inspector(s) who have conducted inspections and initiated enforcement action”***

We consider this information to be exempt from disclosure under section 40(2) of FOIA. Our explanation of this exemption is detailed below under the heading “Section 40 – Personal Information of CQC employees”.

We have enclosed copies of the current job description for the posts of Inspector and Inspection Manager.

The job descriptions do not specify any specific qualifications but do list an extensive range of “knowledge, skills and experience” that is required for the respective roles.

We can advise that we will not reveal the identity, specific qualifications and experience of our employees as part of a FOIA response (which is made to the world at large).

There is no current requirement for individuals to have a specific qualification, to carry out the roles of Inspector and Inspection Manager.

Our employees do however have access to specialist advisors.

CQC has a bank of clinical and professional specialist advisors who currently work in the sectors that we regulate and have up-to-date knowledge and experience in their specialist area. The specialist advisors can provide advice by e-mail or phone, or accompany our Inspectors on an inspection.

With their experience and skills, Inspectors will generally be able to assess and apply the current regulatory model in most circumstances. However, they may encounter situations where they need to ask for specialist clinical and/or professional advice to interpret the use of regulations and standards.

CQC recognises that the general public will be interested in knowing that our employees are suitable for the role they are carrying out. We can advise that CQC considers the “*knowledge, skills and experience*” of our employee to be sufficient, enabling them to carry out their respective role.

CQC has published information about Experts by Experience on our website:

[www.cqc.org.uk/content/involving-people-who-use-services](http://www.cqc.org.uk/content/involving-people-who-use-services)

[www.cqc.org.uk/content/experts-experience-procurement-0](http://www.cqc.org.uk/content/experts-experience-procurement-0)

Experts by Experience are people who have experience of using care services. They take part in our inspections of health and social care services and our visits to monitor the use of the Mental Health Act.

Experts by Experience also attend events, consultations and staff training events and take part in activities that develop our processes.

During our inspections, they spend time talking to people who use the service and observing the environment. They have first-hand experience of receiving

care so they know which questions to ask to get as much information from the visit as possible.

Their findings are used to support the inspector's judgment on the service and can also be included in the inspection report.

Age UK and Choice Support have also published information on their websites:

[www.ageuk.org.uk/professional-resources-home/services-and-practice/care-and-support/experts-by-experience/](http://www.ageuk.org.uk/professional-resources-home/services-and-practice/care-and-support/experts-by-experience/)

[www.choicesupport.org.uk/Professionals/professionals-experts-by-experience.html](http://www.choicesupport.org.uk/Professionals/professionals-experts-by-experience.html)

## **Exemptions from the right to know**

### **Section 31 – Law enforcement**

As advised above, the report of our findings from our visit to the location has not been drafted as yet. We are therefore unable to provide you with any communications about this inspection visit at this point in time.

CQC considers this information to be subject to the exemption from the right to know provided at section 31(1)(g) of FOIA as it relates to 31(2)(c) of FOIA.

Section 31 states:

***“(1)Information which is not exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice—***

***g)the exercise by any public authority of its functions for any of the purposes specified in subsection (2)***

***(2)The purposes referred to in subsection (1)(g) to (i) are—***

***c)the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise,”***

Under this exemption, CQC can withhold any disclosure which would prejudice the exercise by any public authority of its functions relating to protecting the public from misconduct, incompetence, dishonesty or malpractice.

“Prejudice” may be the obstruction of our regulatory function in determining whether any registered provider is compliant with the essential standards of quality and safety and associated regulations.

Section 31 is a qualified exemption which means that we are required to take into account the public interest in reaching a decision on disclosure. The public interest test requires us to consider whether the public interest in favour of disclosing the information outweighs the public interest in withholding the information.

In conducting this test we have referred to guidance issued by 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.

Having considered the public interest test, we consider there is a strong assumption that the public interest favours withholding this information as there is genuine danger of prejudice.

The guidance issued by the ICO also recognises that *"Given the strong public interest in protecting the activities listed in section 31, it is likely that this will often outweigh the public interest in releasing the information."*

However we do recognise that this should not be adopted as a default position and that the public interest must be considered on an individual case by case basis.

This exemption is intended to safeguard the exercise of public functions intended to protect the public from harm caused by wrongdoing, incompetence or mismanagement.

In conducting this test, we have considered the following factors in favour of disclosure:

- there is a general public interest that CQC are open and transparent in the way we function
- the public interest that public authorities such as CQC are accountable for their actions

Against this, we have considered the following factors against disclosure of the information:

- the strong public interest in avoiding likely prejudice to the regulatory function of CQC
- disclosure of this information could bypass our systems of checks and controls under the Health and Social Care Act 2008
- disclosure of this information could obstruct our regulatory function in determining whether registered care providers are compliant with the relevant standards and regulations

Premature release of communications relating to our recent inspection visit could mean giving out incorrect or unreliable information to the public. The public interest would not be served by disclosing information which would prejudice our regulatory function.

Having considered the above factors, it is CQC's view that the public interest in withholding the information is greater than the public interest that may be served by disclosure therefore CQC will not provide the requested information.

We consider the public interest will be met when the report is finalised and available for public consumption on our website.

We could consider disclosure of communications relating to the most recent inspection visit at that point in time.

We would suggest that you sign up for an e-mail alert on our website for 'Intrim Medical and Rescue Services':

[www.cqc.org.uk/location/1-2054605689/subscribe](http://www.cqc.org.uk/location/1-2054605689/subscribe)

The alert will send you an e-mail when we start to inspect or when we publish a new inspection report about the location.

## **Section 44 – Prohibitions on disclosure**

Personal information relating to and identifying individual people within the recorded information has been obtained by CQC in confidence in our role as the regulatory body.

Where personal information has been obtained or received by CQC, in circumstances requiring confidentiality disclosure may be a criminal offence under section 76 of the Health and Social Care Act 2008.

Section 76 of the Health and Social Care Act 2008 states:

*"Disclosure of confidential personal information*

*(1) This section applies to information which—*

*(a) has been obtained by the Commission on terms or in circumstances requiring it to be held in confidence, and*  
*(b) relates to and identifies an individual.*

*(2) A person is guilty of an offence if the person knowingly or recklessly discloses information to which this section applies during the lifetime of the individual.*

*(3)A person guilty of an offence under this section is liable—*

*(a)on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both;*

*(b)on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both."*

Disclosure is only permitted within the scope of "Defences" provided by section 77 of the Health and Social Care Act 2008.

No defence is applicable in this case therefore we consider that disclosure of confidential personal information within the documentation would be an offence.

We therefore consider section 44(1)(a) of FOIA to be engaged.

Section 44(1)(a) states:

*"Prohibitions on disclosure.*

*(1)Information is exempt information if its disclosure (otherwise than under this Act) by the public authority holding it—*

*(a)is prohibited by or under any enactment,"*

Section 44 is an absolute exemption which means that if information is covered by any of the subsections in section 44 then it is exempt from disclosure under FOIA.

No public interest test is required for this exemption.

## **Section 40 – Personal information**

We also consider the exemption from disclosure provided at section 40(2) of FOIA to be engaged for some of the information.

Section 40 of FOIA states:

*"40 Personal information*

*(1)Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.*

*(2)Any information to which a request for information relates is also exempt information if—*

*(a) it constitutes personal data which do not fall within subsection (1), and  
(b) either the first or the second condition below is satisfied.*

*(3) The first condition is—*

*(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene—*

*(i) any of the data protection principles, or  
(ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and*

*(b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.*

*(4) The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(c) of that Act (data subject’s right of access to personal data).”*

Individuals, who can be identified in the recorded information, would have a reasonable expectation that a public authority, such as CQC, would not release information into the public domain under FOIA, which in turn could identify them.

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 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 within schedule 1 of the Data Protection Act 1998.

The purpose of the Data Protection Act 1998 is to protect people’s private information and to ensure that it is handled properly.

CQC considers that it would be a breach of the Principles of the Data Protection Act 1998 to disclose the information relating to third parties because in the interests of fairness the individual(s) in question would not expect us to share their personal data with the wider public under FOIA. To do so would be a breach of their privacy and rights.

No public interest test is required for this exemption.

#### **Section 40 – Personal Information of CQC employees**

We consider the specific qualifications and experience of our employees to be subject to the exemption from the right to know provided at section 40(2) of FOIA.

Whilst our employees are public facing, they do not have a level of seniority which would bring with it an expectation that their qualifications and experience should be disclosed into the public domain under FOIA.

We therefore consider that there is not a fair expectation for this information to be disclosed into the public domain.

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 purpose of the Data Protection Act 1998 is to protect people's private information and to ensure that it is handled properly.

We consider that it would be a breach of the Principles of the Data Protection Act 1998 to disclose the requested information because in the interests of fairness the individual(s) in question would not expect us to share personal data, such as their specific qualifications and experience, with the wider public under FOIA. To do so would be a breach of their privacy and rights. In addition, when such information was provided to CQC as part of any employment application, the individual(s) would have been provided with an assurance that all such information would remain confidential.

No public interest test is required for this exemption.

Please note that CQC has previously refused this type of information for other employees in different areas of the country. Our decision to protect the personal data of our employees was upheld on two different occasions by the Information Commissioners Office:

[https://ico.org.uk/media/action-weve-taken/decision-notices/2014/971752/fs\\_50518803.pdf](https://ico.org.uk/media/action-weve-taken/decision-notices/2014/971752/fs_50518803.pdf)

[https://ico.org.uk/media/action-weve-taken/decision-notices/2014/990456/fs\\_50526241.pdf](https://ico.org.uk/media/action-weve-taken/decision-notices/2014/990456/fs_50526241.pdf)

#### **Section 41 – Information provided in confidence**



CQC considers some of the information to be subject to the exemption from disclosure provided at section 41(1) of FOIA, because it relates to information provided to CQC in confidence.

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 applies where information has been obtained from any other person or organisation and where disclosure could constitute an actionable breach of confidence.

Our website advises that we *“treat information we receive from the public, professionals and others as confidential”*.

[www.cqc.org.uk/content/confidentiality-and-sharing-information](http://www.cqc.org.uk/content/confidentiality-and-sharing-information)

Our code of practice details how we obtain, handle and use personal information.

The code can be viewed or downloaded through the above link.

Individuals who have shared information with CQC have done so with a reasonable expectation of confidentiality. They would not expect CQC to disclose the information into the public domain under FOIA.

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.

CQC considers that disclosure of any information which could identify individuals would be a potentially actionable breach of that duty of confidence therefore CQC will not provide the information covered by this exemption.

Individuals would not expect a public authority such as CQC to share information, which could in turn identify them, with the wider public under FOIA.

In making this decision, CQC has referred to guidance issued by 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.

This guidance is "[Awareness guidance 2 – Information provided in confidence](#)" and is available to view or download from the ICO website:

[www.ico.org.uk/for\\_organisations/freedom\\_of\\_information/guide/refusing\\_a\\_request](http://www.ico.org.uk/for_organisations/freedom_of_information/guide/refusing_a_request)

Specifically the guidance recognises that the information need not be highly sensitive. The preservation of confidences is recognised by the courts to be an important matter and one in which there is a strong public interest.

### **Advice and assistance**

You may also wish to consider making a request for information directly to any other relevant public authorities

The local authority may hold complete details of any safeguarding concerns that have been referred to them in their role as the lead authority for safeguarding.

Whilst safeguarding is a key priority for CQC, arrangements for safeguarding adults fall under the Department of Health policy framework of "[No Secrets](#)" guidance (2000), which gives councils the responsibility for establishing and coordinating local multi-agency procedures for responding to allegations of abuse of adults.

The local authority will therefore hold complete records about any safeguarding investigations.

The Police are also subject to the Freedom of Information Act 2000 so you may wish to consider making a request to any relevant local Police authority for any recorded information they may hold.

If you need any independent advice about your 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 listed below.

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

[www.ico.org.uk/for-the-public/official-information](http://www.ico.org.uk/for-the-public/official-information)

You may find the “dos and don’ts” useful in aiding your understanding of the legislation.

Specifically, you should not use offensive or threatening language, level unfounded accusations and make personal attacks when making a request for 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. To request a review please contact:

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

E-mail: [information.access@cqc.org.uk](mailto:information.access@cqc.org.uk)

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/content/contact-us](http://www.cqc.org.uk/content/contact-us)

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

The contact details are:

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

Telephone: 01625 545 745

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