

Response issued under the Freedom of Information Act 2000

Our Reference: CQC IAT 1819 0204

Date of Response: 17 June 2018

Information Requested:

“Please send me copies of all correspondence, reports of meetings and inspectors records for your investigation / inspection of The Linden Center in Chelmsford in 2012 and 2013, 2015 under North Essex Partnership Trust. I do not wish to see any personal details about service users and their care.”

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 recorded information in relation to this matter.

We attach copies of this information together with a schedule of documents, cataloguing nine documents. These documents constitute the remaining correspondence and records held by CQC regarding The Linden Centre between the years of 2012 and 2015.

You will see that the names of some employees of the trust have been removed to protect their confidentiality in accordance with Section 40(2)/(3) of the Freedom of Information Act 2000. In some cases, where the text reads ‘REDACTED’, the names of employees were removed when these documents were requested previously. As CQC no longer holds the original copies, we have checked these redactions to the best of our ability. One of the names has been removed incorrectly. In this case, we can confirm that the Chief Executive of the North Essex Partnership Trust at the point of publication of document 1 was Andrew Geldard. This was incorrectly redacted in document 1, but as you can see this has not been redacted from document 6.

Inspection notes are only held for six months following the publication of the inspection report and therefore have been securely destroyed, and are no longer held by the CQC.

The Freedom of Information Act 2000 and exemptions on disclosure

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.

Recorded information includes printed documents, computer files, letters, emails, photographs, and sound or video recordings.

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 disclosure under FOIA is described as "applicant blind" meaning that it is a disclosure into the public domain, not to any one individual.

This means that everyone has a right to access official information. Disclosure should be the default – in other words, information should be kept private only when there is a good reason and it is permitted by FOIA.

An applicant does not need to give a reason for wanting the information. On the contrary, the public authority must justify refusing the information.

Public authorities are required to treat all requests equally, except under some limited circumstances. The information someone can access under FOIA should not be affected by who they are, whether they are journalists, local residents, public authority employees, or foreign researchers.

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.

Section 40 – Personal information

We consider the exemption from the right to know provided at section 40(2) of FOIA to be engaged.

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.

The Data Protection Act regulates the use of "personal data" and the processing of that data. There are six Data Protection principles which are listed within article 5 of the [General Data Protection Regulation](#).

We believe that releasing the information could allow for the identification and therefore potentially be a breach of principles a, b and f.

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. In particular, the first principle requires that disclosure of the information must be fair and lawful.

The purpose of the Data Protection Act 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 to disclose the redacted information 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. It would also be a breach of the principles as disclosure would not be lawful by virtue of section 76 of the Health and Social Care Act, which has been explained above.

No public interest test is required for this exemption.

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.

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