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South East CSU
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SE1 7NT

Email: SECSU.FOI@nhs.net

21 March 2017

Ref: FOI.16.MERT238

Dear Ms Rushbrooke

Freedom of Information Act Request

Thank you for your request under the Freedom of Information Act. This response is provided on behalf of NHS Merton Clinical Commissioning Group (CCG).

You asked a follow-up question in relation to FOI.16.MERT208:

Your previous response re question 5:

Please supply the policy that guides care homes in Merton to comply with the MCA 2005?

The CCG does not hold the information you have requested.

Care homes are required to have their own company MCA/DoLS policy in place that is compliant with Legislation and required for Care Quality Commission (CQC) registration.

The CQC require sight of this on inspecting the home. In addition it is the Merton CCG expectation that all providers, including care homes, comply with local and national policy and guidance on MCA.

I wrote to Barchester asking for their MCA/DOLS policy and this is the reply:

Please be advised that Barchester Healthcare's policies are for internal use only and therefore, we are unable to comply with your request for a copy of our MCA policy

If the CCG nor the care home have a copy of the homes MCA policy for service users and CCG to access how can the CCG know if a care home is complying or not?

The CCG understands that based on the response given by Barchester Healthcare it does have a MCA Policy, but as they are not covered by the Freedom of Information Act, they are not obliged to share it with a member of the public as it is a document for internal use.

The Care Quality Commission does have sight of this policy, as they are the organisation responsible for care home inspections and recommendations.

The CCG expects that all its providers will meet legislative and statutory requirements, and enables self-reporting and works with the relevant overseeing authorities to ensure that legislative and statutory minimum standards are being maintained. Though the CCG contract specifies monitoring, the CCG also gains assurance of compliance in relation to policies and systems in place.

Further Advice about the Freedom of Information Act

Under the Freedom of Information Act you have a right to request any recorded information held by a public authority, such as a government department, local council or state school.

- You can ask for any information you think a public authority may hold. The right only covers recorded information which includes information held on computers, in emails and in printed or handwritten documents as well as images, video and audio recordings.
- You should identify the information you want as clearly as possible.
- Your request can be in the form of a question, rather than a request for specific documents, but the authority does not have to answer your question if this would mean creating new information or giving an opinion or judgment that is not already recorded.

More information for members of the public about the Freedom of Information Act, what it covers and other methods of accessing information held by public authorities can be found on the Information Commissioner's Office website:

<https://ico.org.uk/for-the-public/official-information/>

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Secsu.foi@nhs.net

Postal Address

South East CSU
1 Lower Marsh
London
SE1 7NT

Website Address

<http://www.southeastcsu.nhs.uk>

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Review Procedure

If you feel that we have not met the requirements of the Freedom of Information Act 2000, you should contact the person who sent the response to you.

If you remain dissatisfied, you can ask us to review our decision by making a written request for internal review. This must include your address, a description of the original request and the reasons why you are dissatisfied. Please send this to:

Email

Secsu.foi@nhs.net

Postal Address

South East CSU
1 Lower Marsh
London
SE1 7NT

Website Address

<http://www.southeastcsu.nhs.uk>

The review will be handled by staff who were not involved in the original decision – although this will not apply to Section 36 claimed exemptions in accordance with Department of Health Directive. Your request will still be reviewed. We aim to complete all internal reviews within 20 working days. If you then wish to appeal you should contact the Information Commissioner for an independent review at the following address:

Telephone

01625 545745

Postal Address

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Website Address

www.ico.gov.uk

Feedback

Your feedback is welcome to help us improve the service we provide. Please send comments or suggestions to our address.

Yours sincerely,

Freedom of Information Team

South East CSU

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