

28 October 2022

7 and 8 Wellington Place
Leeds
West Yorkshire
LS1 4AP

Our ref: NIC-682921-Y1W0D and NIC-682949-X3W8G

Dear Sir/Madam,

Re: Information Request – Freedom of Information Act (FOIA) 2000

Thank you for your emails dated 6 and 7 October 2022 requesting the following information:

6 October 2022:

“Please can you clarify a few matters regarding patient's rights to know who has accessed their medical data on the PDS Service.

Please can you clarify whether or not the following information is accurate in regards to patient's that submit a DSAR to NHS Digital for their own audit data.

- 1) If a patient submits a DSAR to NHS Digital for their own audit data, are the only names that should be redacted from the audit log the receptionists?*
- 2) If NHS Digital do redact any health professionals name that has accessed the medical records, do they need to provide the patient with a valid reason for each name that is redacted on each occasion within the patient's audit log?*
- 3) Please can you confirm whether or not NHS Digital should also provide the patient with the health professional's reasons for accessing the medical records?*
- 4) If a patient requests for an independent review of their DSAR request by a Caldicott Guardian due to missing information from their DSAR, do NHS Digital have a duty to honour the patient's request?*

As you are aware, NHS Digital also has it's own Counter fraud team known as the NHS Digital Counter Fraud team. I believe they also investigate complaints in regards to bribery and corruption.

*I believe that patient's can contact the team at the following address:
nhsd.fraudteam@nhs.net*

- 5) Please can you confirm whether or not the NHSD Counter fraud team work independently from the team that handle patient's DSAR requests?”*

7 October 2022:

“1) Who are the Executive Agency Programme - NATIONAL PROGRAMME FOR IT (X09001)?

2) *What do they do?*

3) *Why would they access somebody's records on the PDS service?"*

NHS Digital are refusing your requests under section 14(1) of the FOIA. Section 14(1) sets out that organisations are not obliged to respond to requests which are vexatious.

You have recently submitted an Internal Review request (ref: NIC-682661-X7V8Y) to NHS Digital in relation to your DSAR request reference NIC-679337-S0D0N. The questions you ask in your FOI requests above overlap almost completely with the concerns you have raised in your DSAR Internal Review request. We therefore consider that these FOI requests are intended to either undermine or interfere with the DSAR Internal Review process.

Any response we provided to you in response to these requests would jeopardise our ability to provide you with a full and effective DSAR Internal Review response. As such, we consider that the most helpful course of action is to refuse these requests, and instead respond to your DSAR Internal Review, which can more fully consider the issues you have raised with specific reference to your DSAR request.

We have also taken into account the pattern of your requests. You have submitted 8 FOI requests to NHS Digital since 17 August 2022, all of which relate to the DSAR case reference NIC-679337-S0D0N. That DSAR was submitted by you on behalf of a third party, and asked for information regarding the data subject's medical records. Your FOI requests submitted since 17 August have all asked for information *about* that DSAR response. You have submitted multiple requests in short succession, often not waiting for a response to one request before another is submitted. We therefore consider that to respond to these requests would result in further follow-up type questions being submitted. This would further complicate your case and again limit our ability to provide a cohesive response to your DSAR Internal Review request.

We are therefore satisfied that section 14(1) applies in this instance. We will write to provide a separate response to your DSAR Internal Review request in due course.

I trust you are satisfied with our response to your request for information. However, if you are not satisfied, you may request a review from a suitably qualified member of staff not involved in the initial query, via the enquiries@nhsdigital.nhs.uk email address or by post at the above postal address.

If following an internal review, you remain unsatisfied with the way in which we have handled your request you are entitled to ask the Information Commissioner to assess whether we have complied with our obligations under FOIA by writing to them at the following address:

Information Commissioner's Office
Wycliffe House Water Lane
Wilmslow
Cheshire SK9 5AF
Email: icocasework@ico.org.uk

NHS Digital values customer feedback and would appreciate a moment of your time to respond to our [Freedom of Information \(FOI\) Survey](#) to let us know about your experience.

Yours faithfully,

Information Governance Adviser