

Response issued under the Freedom of Information Act 2000

Our Reference: CQC IAT 1819 0258

Date of Response: 10 August 2018

Information Requested:

- “1) The number of individual reports about a potentially unregistered service operating for each calendar month from January 2018. (regardless of outcome after the CQC looked into it).
2) The number of individual reports about a potentially unregistered service operating for each calendar month from January 2017 until 13th July 2017.
3) Please identify the highest number of reports about a potentially unregistered service received about individual services (regardless of outcome) so far in 2018.
4) Please identify the name of any service reported as potentially unregistered and corresponding number of reports about it (whether it ultimately required registration or not) which received more than ten reports that it may be operating without registration/regulation by CQC in 2018.”***

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.

Requirement to register

CQC is the independent regulator of health and social care services in England.

We make sure health and social care services provide people with safe, effective, compassionate, high-quality care and we encourage them to improve.

Any person (individual, partnership or organisation) who provides regulated activity in England must be registered with us otherwise they commit an offence.

The scope of registration provides a description of the health and adult social care services, known as 'regulated activities', which require a registration with CQC.

To read the scope of regulation, please visit:

www.cqc.org.uk/sites/default/files/20151230_100001_Scope_of_registration_guidance_updated_March_2015_01.pdf

For more information on registration, please visit our website below:

www.cqc.org.uk/guidance-providers/registration/what-registration

Your request for information

"1) The number of individual reports about a potentially unregistered service operating for each calendar month from January 2018. (regardless of outcome after the CQC looked into it)."

We attach a spreadsheet which provides a breakdown of enquiries per calendar month from 1 January to 5 August 2018.

"2) The number of individual reports about a potentially unregistered service operating for each calendar month from January 2017 until 13th July 2017."

We attach a spreadsheet which provides a breakdown of enquiries per calendar month from 1 January to 5 August 2017.

"3) Please identify the highest number of reports about a potentially unregistered service received about individual services (regardless of outcome) so far in 2018."

We consider some of the details are exempt from disclosure as we are unable to provide exhaustive information within the cost limit set out by section 12 of the Freedom of Information Act 2000. This is because there are over 200 enquiries logged in our Customer Relationship Management system which will require manual review in order to determine whether they contain additional information to the enquiries already raised, or whether they are new enquiries about unregistered providers. For a detailed explanation of the exemption, please see the section 'Exemptions from the right to know'.

The highest number of reports about a potentially unregistered individual service which we were able to identify within the cost limit is 12.

“4) Please identify the name of any service reported as potentially unregistered and corresponding number of reports about it (whether it ultimately required registration or not) which received more than ten reports that it may be operating without registration/regulation by CQC in 2018.”

There were two services which we could identify within the cost limit that have more than 10 enquiries recorded against them. Those are:

UK Meds Direct Ltd – 12 enquiries,
Brookson Medical Care Services Ltd – 12 enquires.

Our registration inspectors have carried out investigations into the above named providers and concluded that the services they deliver do not require registration because a regulated activity was not being carried on.

The Freedom of Information Act 2000

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.

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.

Exemptions from the right to know

Section 12- Cost Limit

CQC considers your request for some of the information about unregistered provider enquiries to be exempt from disclosure under section 12 of the FOIA.

This is because we would be required to manually extract information from over 200 enquiries to establish whether they relate to information about a potentially unregistered provider. Those enquiries do not have the names of the provider recorded in the fields that would allow for automatic extraction and analysis of information.

Section 12 of the FOIA applies where the cost to a public authority of complying with any individual request would exceed £450. In such cases, the public authority is allowed to refuse to comply with the request for information.

We estimate that performing a search for information over 200 different enquiries would exceed this limit.

As a public authority we wish to be transparent and open about our work but we have a statutory responsibility to use our resources effectively.

Section 2(3) of schedule 1 of the Health and Social Care Act 2008 states that “It is the duty of the Commission to carry out its functions effectively, efficiently and economically.”

A public authority such as CQC is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

In calculating whether this appropriate limit is exceeded, regulation 4(4) of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 requires that the time taken in responding to requests (locating, retrieving and extracting the information) must be calculated at a rate of £25 per person per hour. Therefore, any requests where it would take over 18 hours to locate, retrieve and extract the information would exceed £450.

CQC estimates that to review information contained within over 200 enquiries where the provider details are not recorded in the fields that would allow for automatic extraction would take longer than 18 hours.

CQC does not consider conducting such a search of our records to be an effective and efficient use of our limited resources, especially as we publish the cost basis of our Operating Model in our annual report.

In accordance with section 12 of FOIA, CQC chooses not to conduct such an exercise because of the high cost involved.

In making the decision we have referred to guidance published on the Information Commissioner’s Office (ICO) website:

www.ico.gov.uk/for_organisations/freedom_of_information/guide.aspx

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 the rights of individuals:

www.ico.org.uk/your-data-matters

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