

Response issued under the Freedom of Information Act 2000

Our Reference: CQC IAT 1819 0348

Date of Response: 7 September 2018

Information Requested:

“1) Could I ask you to clarify more about the more than 200 records you could not interrogate. Is this because there is a backlog over this period and they have not been added to the CQC system yet?”

2) If so is it possible these relate to either of the previously named service providers?

If this represents an unprocessed backlog of reports about a potentially unregulated provider that you have not yet processed/added to your system could you please advise when this process will be complete so that a further FOI can be placed for this information at that point (it is presumed the CQC will not simply ignore reports and will at least note every complaint made thus that this represents a delay rather than a decision not to process?).”

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.

Your request for information

“1) Could I ask you to clarify more about the more than 200 records you could not interrogate. Is this because there is a backlog over this period and they have not been added to the CQC system yet?”

All reports regarding potential unregistered providers are triaged and investigated. There is no backlog of the information as all incoming reports are

immediately logged onto our Customer Relationship Management system and allocated out to the relevant registration team for further enquiries. With regards to the records that we are unable to interrogate within the cost limit - the provider details are not recorded within the enquiries in the way that would allow for an automatic extraction of the data. In order to provide the requested information we would need to manually review each of those records. We therefore continue to rely on the exemption provided at section 12 of the FOIA as per our response to CQC IAT 1819 0258. We attach that response for reference.

“2)If so is it possible these relate to either of the previously named service providers?”

There is a possibility that those records relate to the providers named in our response issued under the reference CQC IAT 1819 0258. We are unable to provide a definite answer as in order to establish whether they do, we would need to carry out a manual review of over 200 enquiries. As per the explanation in point 1, we can confirm that all reports of unregistered providers are reviewed and appropriate action is taken.

You can read more about who is required to register with CQC on our website below:

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

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 information about over 200 enquiries identified in our response to the request CQC IAT 1819 0258 to be exempt from disclosure under section 12 of the FOIA.

This is because we would be required to manually extract information from those 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.

We would be more likely to provide you with the requested information within the cost limit if you were to resubmit your request and significantly narrow down the scope of it. For example, we would be likely to review what recorded information is held in a sample of 20 enquiries.

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