

14 December 2020

request-696615-5c5c17b8@whatdotheyknow.com

Dear Sam Stone

Our Ref: CQC IAT 2021 0425

I write in response to your correspondence dated 18 October 2020 in which you asked us to review our response to your request for information.

Your original request was received on the 6 October 2020 and was responded to on the 28 October 2020

You review requested:

"I am writing to the Care Quality Commissioner (CQC) as of CQC using section 12(1) of the FOIA 2000/2004 CQC have also refused to make a public disclosure without placing a "refusal notice" in writing with a full explanation for the applicant(myself) to understand the the exempts made surrounding the FOIA about fire safety of all care homes and regulations under the Health and Social Care Act 2008 Regulations that CQC have enforcement of these as a primary Regulator of all care providers including Quantum Care Limited. CQC Regulations and legislation will be further on in this letter to CQC under the FOIA 2000 legislation."

Your request has been processed in accordance with our internal review procedure for requests made under information legislation.

Your internal review stated that CQC refused to disclose the requested information without properly completing a refusal notice explaining why we could not provide the information.

I can confirm that we issued a refusal notice on the 28 October 2020. The refusal notice included the exemption set out at section 12 of the FOIA, this exemption relates to the cost of compliance with the request. This exemption was fully explained in the response and meets the requirements of the Freedom of Information Act 2000 (FOIA).

Where section 12 is engaged, a public authority does not have to answer any part of a request.

As noted in our response, we would have to conduct manual searches on upwards of 900 documents in order to locate, extract and retrieve the requested information for question 5 alone. Questions 4 and 9 would also require extensive manual searches. These searches would far exceed the cost limit set out in the Act.

FOIA section 16 places a requirement on public authorities to provide advice and assistance. I find that our response did provide you with some advice, directing you to our website, however further advice could have been provided to direct you to particular areas of the website and advise how to refine your request for information. This is provided below.

Our response to the review:

- Having consider this information, I partially uphold your complaint.

Information publicly available on our website:

Further to our response, I can provide some more specific links to our website that you may find of assistance:

Regulations for service providers and managers

The National Minimum Standards ceased to be used when the Care Standards Act 2000 was replaced by the Health and Social Care Act 2018 (Regulated Activities) Regulations 2014 and fundamental standards, which can be found here:

<https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulations-service-providers-managers>

Links to related legislation:

<https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulations-service-providers-managers-relevant>

Enforcing safety – roles and responsibilities of CQC and HSE

<https://www.cqc.org.uk/guidance-providers/regulations-enforcement/mythbusters-enforcing-safety-%E2%80%93-roles-responsibilities-cqc#myth-1>

Fees charged by care homes

CQC do not routinely hold this data.

Inspection frequency:

CQC inspections can happen at any time. You can find out the standard timescale for inspections here:

<https://www.cqc.org.uk/guidance-providers/adult-social-care/when-we-will-inspect-adult-social-care-services>

And our Coronavirus Pandemic transitional arrangements here:

<https://www.cqc.org.uk/guidance-providers/how-we-inspect-regulate/transitional-monitoring-approach-what-expect>

Regulations for providers and managers:

You can find the regulations for service providers and managers here:

<https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulations-service-providers-managers>

Regulation 7: Requirements relating to registered managers

<https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-7-requirements-relating-registered-managers>

Staffing

CQC regulations and legislation does not stipulate the staff/carer ratio, this should be based on the needs of the service user, by the provider.

Please refer to Regulation 18 (1) relating to staffing:

<https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-18-staffing#guidance>

Medication

Please refer to Regulation 12: Safe Care and Treatment

<https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-12-safe-care-treatment#guidance>

Liability Insurance

Please see the link to Care Quality Commission (Registration) Regulations 2009: Regulation 13:

<https://www.cqc.org.uk/guidance-providers/regulations-enforcement/regulation-13-financial-position#guidance>

During an inspection, CQC inspectors may ask to view this document, but we do not routinely take copies of them.

CQC records retentions

The retention period depends on the type of record. For example:

- Call recordings (incoming telephone calls from providers/general public) - 6 months.

- Inspection records – 6 months after the inspection report is published
- Inspection reports – permanent record

CQC Email address:

The email address on our website is correct: enquiries@cqc.org.uk as can be seen at:

<https://www.cqc.org.uk/contact-us>

How to refine your request for information

Where a request is refused under section 12 a public authority is required to provide advice and assistance to the applicant.

Along side the links provided above, you may also wish to make a new request for a more limited set of information.

We may be able to consider a new request for statistical information relation to the following statutory notifications.

We could provide numbers of statutory notifications for the following:

- Police involvement in an incident
- Serious injury to a person using the service
- Allegations of abuse (safeguarding)

However, we would be unable to identify particular instances, such as falls or thefts, without conducting extensive manual searches (which would engage the section 12 exemption).

If you wish to make a request for this information, please let us know what timeframe you wish the information to cover.

We could also consider a new request for statistical information on how many enquiries we have logged as whistleblowing or information of concern.

Any new request would still be subject to the relevant exemptions set out in FOIA.

Please let us know if you wish to make a new request for this information.

Further rights of appeal

Following the completion of your review further rights of appeal exist to the Information Commissioner's Office under section 50 of the Freedom of Information Act 2000.

The contact details are:

Information Commissioner's Office
Wycliffe House
Water Lane

Wilmslow
SK9 5AF

Telephone: 0303 123 1113

Website: www.ico.org.uk

Yours sincerely

Acting Senior Information Access Officer
The Information Access Team