



Humber and North Yorkshire  
Health and Care Partnership



Humber and  
North Yorkshire  
Integrated Care Board (ICB)

# Freedom of Information (FOI) Quarterly Report

Quarter Two 2022/23 covering the period:  
1 July 2022 to 30 September 2022

Freedom of Information Delivery Manager

## Introduction

This report provides the Quarter Two position for requests received by NHS Humber and North Yorkshire Integrated Care Board (ICB) under the Freedom of Information Act 2000 (FOIA) during the period 1 July to 30 September 2022.

## Background

The NHS Humber and North Yorkshire ICB was established on 1 July 2022, replacing six local Clinical Commissioning Groups (East Riding of Yorkshire, Hull, North East Lincolnshire, North Lincolnshire, North Yorkshire and Vale of York). All Freedom of Information (FOI) requests received by the predecessor organisations up to 30 June 2022 were reported on in the Freedom of Information Final CCG Report.

NHS East Riding of Yorkshire CCG, NHS Hull CCG, NHS North East Lincolnshire CCG and NHS North Lincolnshire CCG previously shared the FOI service which was hosted by NHS East Riding of Yorkshire CCG, and NHS North Yorkshire CCG provided an FOI Administration Service for NHS Vale of York CCG.

The combined FOI Team which covered the CCGs already worked closely prior to the establishment of the ICB and aligned policies and processes to ensure the ICB was able to maintain compliance with the FOI Act from July 2022. This included the establishment of a new ICB FOI mailbox and a form for submitting FOI requests via the ICB website, which have both simplified the request process.

The effectiveness of the processes and systems has been demonstrated throughout the quarter and is evidenced by the information provided in this report. The FOI Team continue to support and assist ICB staff who provide or collate information for FOI requests, and relationships with teams across the new larger organisation have continued to build and strengthen. The performance evidenced in this report is in no small part due to the ongoing support from colleagues within teams whose capacity has been impacted by their own workloads; that support is duly acknowledged and greatly appreciated.

## Volume of Requests and Timeliness of Responses

As the ICB was not established until 1 July 2022, no comparison against previous years or quarters is available and it is considered that previous CCG data would not be suitable for comparison. Future reports will provide these comparisons.

	<b>Quarter 1 2022/23</b>	<b>Quarter 2 2022/23</b>
<b>Requests Received</b>	Apr-Jun	Jul – Sep
Total number of FOI requests received:	N/A	72

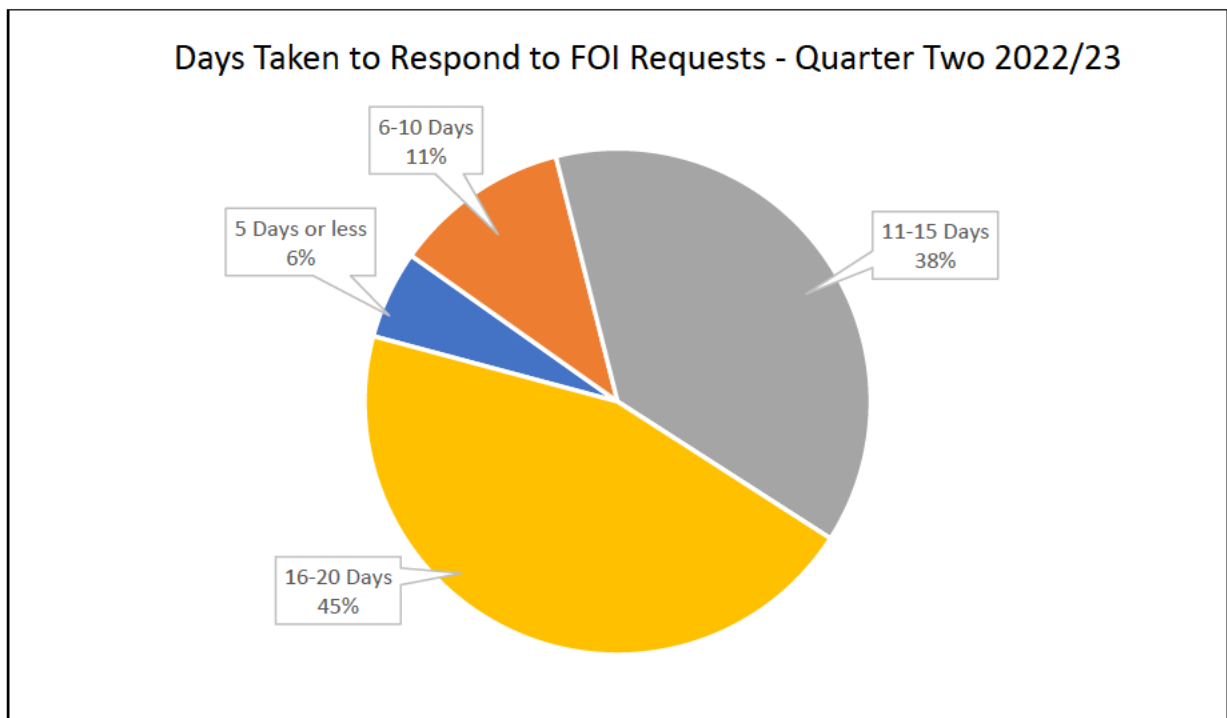
	Quarter 1 2022/23	Quarter 2 2022/23
<b>Total Number of FOI Processed</b>	N/A	71*
Number processed within 20 working days	N/A	71
Percentage FOI processed within 20 working days	N/A	100%
<b>Average time taken to process (days)</b>	N/A	14

\*Clarification was sought for one request, however, as this was not received within the stipulated timescale of two months, the request was closed.

### Response Times

A 100% compliance with the Section 10(1) 20-working day response time was maintained throughout Quarter Two, with an average closure time of 14 days. There is a greater need for coordination of responses across the ICB due to the large geographical footprint, as well as the variation in services etc. which has an impact on the complexity of responses and ultimately on the response times.

The chart below illustrates response timeliness.

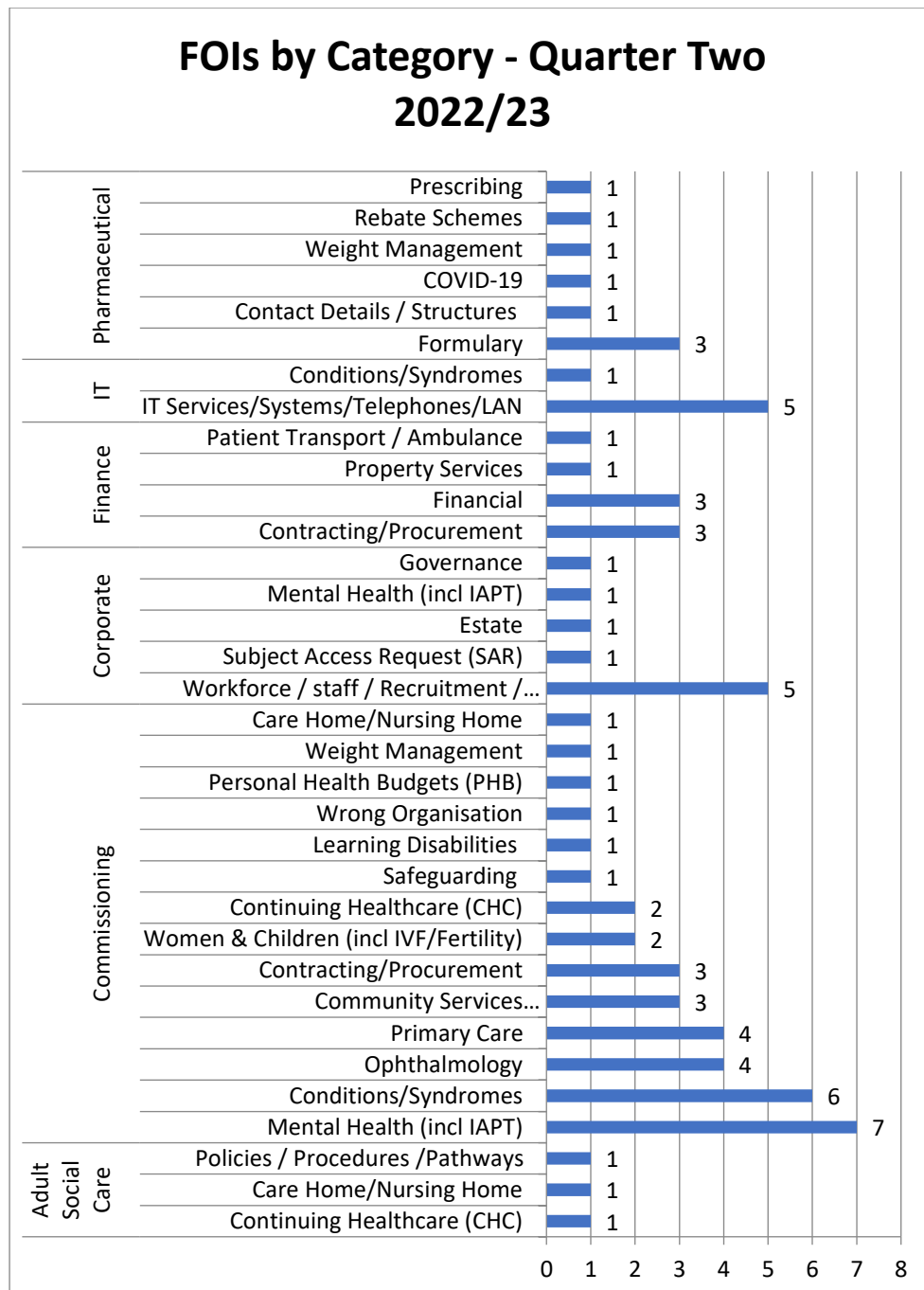


### Subject Area of Request

The ICB has received FOI requests on various topics and in most cases the requests contain multiple questions.

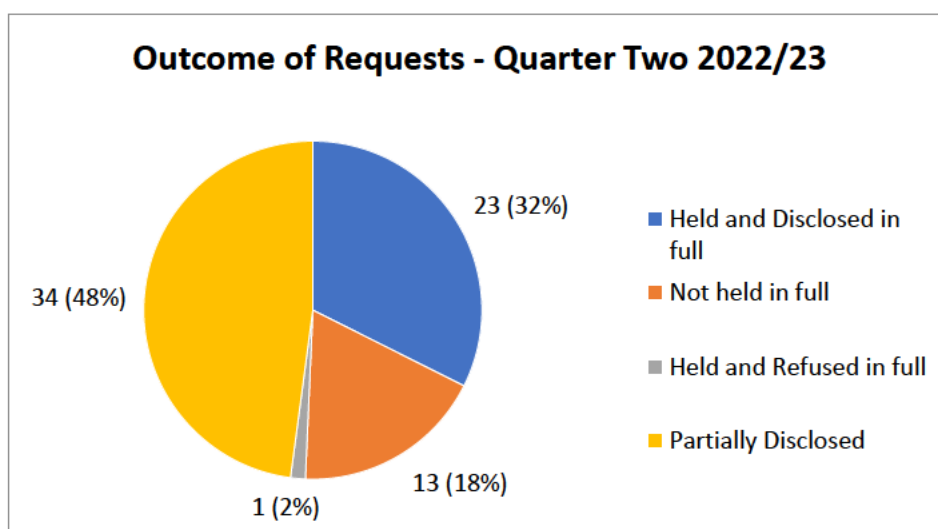
Incoming FOI requests are recorded under a choice of 6 subject areas and 49 themes, many of which are detailed in the chart below. The requests received are diverse and singular, however, the predominant subject area in Quarter Two was commissioning, with a total of 37 requests, seven of which related to Mental Health (including Improving Access to Psychological Therapies (IAPT)), followed by six requests relating to Conditions or Syndromes, both proving to be popular topics.

For a full illustration of the various topics for Quarter Two please see the chart below:



## Outcome of Requests Processed

The following chart displays the proportion of requests by outcome for Quarter Two 2022/23.



Of the 71 requests processed during Quarter Two, 13 (18.3%) sought information that was not held by the ICB. In 23 (32.4%) instances information was provided in full, 34 (47.9%) received part of the information requested as the remainder was either not held by the ICB or withheld as one or more exemptions applied to the request. In 1 (1.4%) case information was withheld in full as one or more exemptions applied. In total, 14 (19.7%) of the requests had one or more exemptions applied.

### Exemptions

There were 16 exemptions applied in total during the quarter. During Quarter Two the most commonly applied exemptions were Section 21 with 6 instances, followed by Section 40 and Section 12, with 4 and 3 instances respectively. The application of Section 21 demonstrates the ICB is able to redirect requesters to information which is already accessible to them by other means. It is anticipated that as the ICB website matures and the information made available through it grows, that the use of this exemption will hopefully increase. The FOI Team are using FOI requests to help improve the quality of information held on the websites at ICB and Place level and is working to ensure compliance with the ICB's publication scheme duties under Section 19(1) of the FOI Act.

The following table illustrates the number of instances information was not disclosed and the exemptions applied during the quarter:

Exemption / Reason for Refusal	Quarter 1	Quarter 2
12 - Cost of compliance	N/A	3

<b>Exemption / Reason for Refusal</b>	<b>Quarter 1</b>	<b>Quarter 2</b>
21 - Accessible by other means	N/A	6
22 - Future Publication	N/A	1
40 – Personal Data	N/A	4
41 – Information Provided in Confidence	N/A	1
43 – Commercial Interests	N/A	1
<b>Total</b>	<b>N/A</b>	<b>16</b>

It should be noted that a request can have multiple exemptions applied within the response.

### Redirections

The ICB has a duty under Section 16 of the FOIA to provide advice and assistance to individuals making requests for information under the Act. In instances where the ICB does not hold the information requested or when information is accessible by other means, the ICB will advise applicants as to which organisation(s) may hold the information.

The table below shows which organisations were highlighted as sources of information and on how many occasions during the quarter:

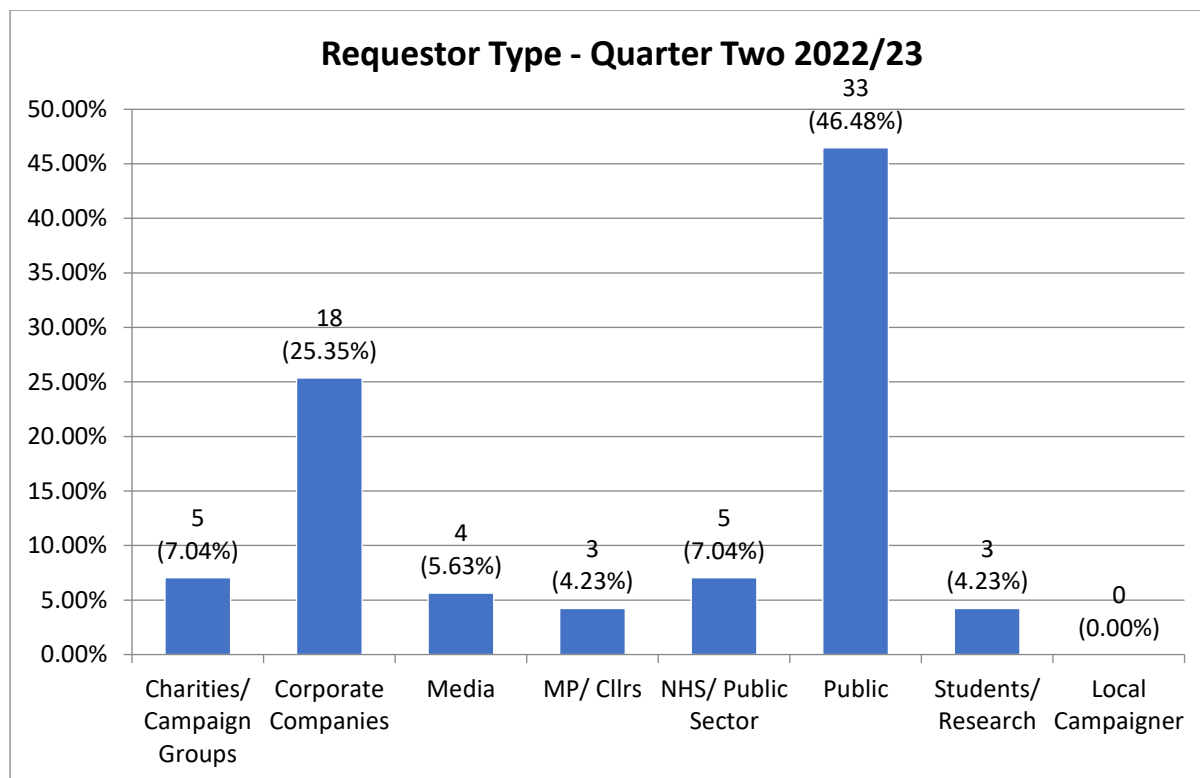
	<b>Quarter 1</b>	<b>Quarter2</b>
NHS-Acute	N/A	16
NHS-Mental Health	N/A	9
NHS Other	N/A	8
NHSE/I	N/A	3
GPs	N/A	0
Local Authority	N/A	6
NHS Digital	N/A	1
Independent Sector	N/A	8
CSU	N/A	0
Other	N/A	1
<b>Total</b>	<b>N/A</b>	<b>52</b>

### **Category of Requester**

In accordance with the FOIA, the ICB maintains an ‘applicant-blind’ approach when handling requests and providing information in response to requests. Where possible the type of FOI requester is recorded by the FOI Team to help identify where the main demand for information originates.

As shown in the chart below, the main types of requesters appear to be individual members of the public followed by corporate companies during the quarter.

Figures are based on processed/completed requests only.



### Internal Reviews

There were no Internal Review requests received by the ICB between 1 July 2022 and 30 September 2022.

However, an Internal Review was received by both NHS Vale of York CCG and NHS North Yorkshire CCG prior to the formation of the ICB as the applicant considered their initial requests had not been responded to. The requests, responses and subsequent internal review requests were identical. As the CCGs have been superseded by the ICB, the requests have been combined and reviewed as one request by the ICB. This internal review was handled during Quarter Two and remained open at the end of the quarter.

### Training

During Quarter Two, information on the FOI Act and staff responsibility as well as a 'Quick Guide to FOI 2022' was circulated to all ICB colleagues.

No FOIA specific training sessions were delivered during Quarter Two 2022/23. General or specific FOI training is available from the FOI Team on request.

## Records Management and Governance

The Section 46 Code of Practice under FOIA covers good records management practice and the obligations of public authorities under the Public Records Acts to maintain their records in an ordered and managed way, so that information can be readily retrieved when it is needed.

In line with best practice recommendations around records management, the FOI Team is exploring the options to transfer Information Asset Ownership and all associated historic CCG FOI records into one central ICB FOI location. This will enable effective and efficient management of the FOI records, reducing risk associated with poor records management as well as enabling straightforward access audits.

Furthermore, a review of the CCGs' FOI records has commenced during Quarter Two, to ensure all retention periods are reviewed and all FOI records are accounted for. If any records are identified that require further action such as disposal, retention or destruction, this will be carried out in line with the ICB's Records Management Policy.

The [NHSX Records Management Code of Practice 2021](#) retention schedule sets out the minimum periods for which various NHS records should be retained and reviewed for continued retention. The recommendations for FOI related records are as follows:

<b>Legal, Complaints and Information Rights</b>			
<b>Record Type</b>	<b>Retention period</b>	<b>Disposal Action</b>	<b>Notes</b>
Freedom of Information (FOI) requests, responses to the request and associated correspondence	3 years	Review and destroy if no longer required	Retention begins from the CLOSURE of the FOI request. Where redactions have been made, it is important to keep a copy of the response and send to the requestor. In all cases, a log must be kept of requests and the response sent.
FOI requests – where there has been an appeal	6 years	Review and destroy if no longer required	Retention begins from the CLOSURE of the appeal process.

In accordance with this guidance, CCG FOI records pertaining to 2018/19, including the 2018/19 FOI register(s) will be due for appraisal and possible destruction from January 2023, with the exception of any records that were subject to Internal



Review. Therefore, it is recommended that the forthcoming appraisal is acknowledged, and any subsequent destruction of FOI records will be carried out in line with the ICB's Records Management Policy and reported on in FOI reports thereafter. It is proposed that any destruction of FOI records will be carried out in consultation with the ICB SIRO and logged on the ICB destruction log. Decisions for disposal are to be authorised by the ICB SIRO in consultation with the FOI Manager and to note future destructions will be reported in FOI reports.

Work was undertaken week commencing 10 October 2022 to remove the six CCG FOI mailboxes to eliminate the risk of missed communication.

### **Publication Scheme**

Section 19(1) of the FOI Act requires public authorities:

- (a) to adopt and maintain a scheme which relates to the publication of information by the authority and is approved by the Commissioner (referred to as a "publication scheme"),
- (b) to publish information in accordance with its publication scheme, and
- (c) from time to time to review its publication scheme.

The publication scheme should specify:

- the classes of information the ICB publishes or intends to publish;
- the manner in which information is to be published;
- whether there is any [charge](#) for the information.

To assist with this duty under the FOI Act the Information Commissioner has approved a [model publication scheme](#) which public authorities must use. The model scheme can be adopted by placing a link to it on the ICB website or otherwise making it available.

The model scheme should not be altered. However, to show the actual information the ICB makes available, the ICB should produce a Guide to Information which specifies the particular information it publishes, how it will be published and what charge, if any, is to be made.

To help the ICB decide which information should be included in the Guide to Information, the Information Commissioner's Office (ICO) has produced definition documents which set out the types of information the ICO would normally expect public authorities to publish.

The [Definition Document for Health Bodies in England](#) has been used to review and identify how much information the ICB already makes routinely available and any recommendations to address any gaps identified will be presented to the relevant

colleagues in the next few months. The ICB will then need to consider whether this information is held, whether it may be published online or whether any of it should be legitimately withheld. The reasons for the decision(s) to withhold any information from publication should be recorded. Improvements will be reported in future FOI reports.

### **FOI Policy**

The Freedom of Information and Environmental Information Regulations (EIR) policy, approved by the ICB Board in November 2022, is available on the ICB [website](#) and has been disseminated to ICB staff.

### **Customer Feedback**

The FOI Team provide an electronic survey link for the collection of anonymous feedback which is sent with every FOI response email. Two responses were returned during Quarter Two, one complete and one partially complete. Both responses rated the ease of understanding their FOI responses as 'Very Good'.

The internal customer feedback process will begin in Quarter Four.

### **Reporting**

The FOI Code of Practice, issued under section 45 of the FOI Act suggests that public authorities with over 100 Full Time Equivalent (FTE) employees should, as a matter of best practice, publish details of their performance on handling requests for information under the Act on a quarterly basis, in line with central government.

It is therefore intended that quarterly FOI Performance Reports will be produced by the FOI Delivery Manager and published on the ICB website here:

<https://humberandnorthyorkshire.icb.nhs.uk/foi/3-what-our-priorities-are-and-how-we-are-doing/>. The publication of each report will be highlighted to ICB staff in the electronic staff newsletters including the web link to the latest report.

The approval of quarterly reports for publication will be sought from the ICB SIRO.

### **Assurance**

All information processing is undertaken in accordance with NHS Information Governance requirements and current Data Protection Legislation, and the FOI Team have undergone adequate training in the use, care, protection and handling of Personal Data.

### **Decision Notices - Information Commissioner's Office (ICO) and News**

Appendix One shows the ICO's health related Decision Notices as well as any Decision Notices relating to Adult Social Care for the quarter.

### **Use of Section 40(2)**

One case that may be of particular interest is [Decision notice IC-109644-G1G4](#), where the NHS Trust withheld requested information under section 40(2) of FOIA on the basis that it is third party personal data, and its disclosure would breach data protection law. The withheld information related to small numbers of a particular cohort of patients, fewer than five, however, the Commissioner's decision was that the Trust was not entitled to rely on section 40(2), as the Commissioner did not consider that the information requested could be used to identify any specific individuals. Therefore, the Commissioner requires the public authority to disclose the information requested within 35 calendar days of the date of the decision notice.

### ICO Enforcement Powers

The ICO publishes details of any action taken by the Information Commissioner to ensure organisations meet their information rights obligations. However, recently there has been more publicising of the Commissioner's use of his various enforcement powers against public authorities. It has been highlighted that one authority has not only received 23 decision notices since the beginning of the year, but also had a practice recommendation issued in relation to a consistently low level of overall performance in respect of the timeliness of responses to FOI requests. The Commissioner reached the view that the authority's underlying reasons for these failings was that their handling practices do not conform to the FOI Code of Practice, issued under section 45 of the FOI Act 2000 by the Cabinet Office in July 2018.

One authority received an information notice, and another authority was issued an enforcement notice (strongest action taken) compelling the authority to respond to, or refuse, all information requests and those outstanding at the date of the notice and to publish an action plan to deal with delays. It has been suggested by specialists in information law that such actions by the Commissioner make it clear that timeliness of FOI responses is significant and also perhaps essential to avoid regulatory or enforcement action from the ICO, even where authorities have been impacted on by the pandemic and budget cuts, it appears that the ICO still expect timely compliance.

These actions are consistent with the ICO's renewed approach to regulating the FOI Act, as set out in its new FOI and Transparency Regulatory Manual and strategic plan. John Edwards, UK Information Commissioner said: *"Accountability and transparency in the work of public authorities is fundamental to democracy and it is the ICO's role to ensure that people's right to access information is protected. I advise public authorities to take note and learn lessons from the action we have taken today, as we will be making greater use of our powers under the Act to drive good practice and compliance."*

### ICO launches action over use of WhatsApp by MPs

During Quarter Two, it was announced that the ICO has launched regulatory action against the Department for Health for serious breaches of transparency and data

protection rules. The action follows a year-long investigation into revelations that ministers, including the Health Secretary, were routinely using private email accounts for government business, raising concerns this had undermined government transparency and accountability. Although the use of private accounts is lawful, it makes it more challenging for journalists to access matters of public record under FOI law.

#### Lords to debate FOI amendment to Procurement Bill

The Campaign for Freedom of Information has drafted an amendment to the Procurement Bill to make information held by public sector contractors subject to the FOI Act. The amendment provides that all information relating to a contract with a public authority held by the contractor, or a sub-contractor will be subject to the FOI Act or the EIRs. The amendment will be debated by peers during the Bill's committee stage in the House of Lords, which is currently underway.

More detail and the latest up to date information can be found on the ICO website at: <https://ico.org.uk/about-the-ico/media-centre/news-and-blogs/>

#### **Summary**

In summary, during 1 July to 30 September 2022, the ICB has received and processed 71 requests for information under FOI. All requests were processed within 20 working days and requests took an average of 14 days to process. In most cases (48%), part of the requested information was disclosed as the remainder was either not held by the ICB or withheld as one or more exemptions applied to the request.

The ICB did not receive any requests for an internal review during Quarter Two.

Work is ongoing to ensure the ICB's compliance with its duties under the Act, through the review of the publication scheme and information made available by the ICB.

Learning from the ICO Decision Notices it is suggested that the ICB

- reconsiders the use of Section 40(2) in relation to small number suppression,
- maintains resources to ensure FOI requests are responded to in a timely way and the ICB's obligations under the FOI Act are met, and
- reviews policy in relation to the use of private WhatsApp, private emails and other similar messaging apps to conduct NHS business.

#### **Recommendations:**

1. The decision for disposal of FOI records in line with the NHS Records Management Code of Practice, to be authorised by the ICB SIRO in

consultation with the FOI Manager and to note future destructions will be reported in FOI reports.

2. The approval of quarterly reports for publication will be sought from the ICB SIRO.

Freedom of Information Delivery Manager  
November 2022

**DECISION NOTICES**  
**Health Related (42 in total)**  
**Search for keywords: Adult Social Care (0)**  
**1 July 2022 to 30 September 2022**

[United Lincolnshire Hospitals NHS Trust](#)

16 Sep 2022, Health

The complainant has requested from United Lincolnshire Hospitals NHS Trust (the Trust) information relating to a self-assessment submitted to the Quality Surveillance Programme. The Commissioner's decision is that, on the balance of probabilities, the requested information is not held by the Trust. However, the Commissioner finds that the Trust breached section 10(1) of FOIA as it failed to provide its response to the request within the statutory timeframe of 20 working days. The Commissioner does not require any steps to be taken as a result of this decision.

FOI 10: Complaint upheld FOI 1: Complaint not upheld

[Cambridgeshire and Peterborough NHS Foundation Trust](#)

15 Sep 2022, Health

The complainant has requested correspondence to and from the Cambridgeshire and Peterborough NHS Foundation Trust ("the CPFT") relating to the Spectrum 10K research project. The CPFT originally refused the request on the grounds of cost (under section 12), but later clarified that it was instead refusing the request on the grounds that compliance would impose a grossly oppressive burden (under section 14(1) of FOIA). The Commissioner's decision is that: The request is vexatious and therefore the CPFT was entitled to rely upon section 14(1) to refuse it.

FOI 14(1): Complaint not upheld

[Decision notice IC-149073-C3S7](#)

[United Lincolnshire Hospitals NHS Trust](#)

15 Sep 2022, Health

The complainant has made a three part request for information relating to babies that were born at the Pilgrim Hospital in Boston with Erb's Palsy (otherwise known as brachial plexus injury). United Lincolnshire Hospitals NHS Trust (the Trust) withheld the requested information under section 40(2) of FOIA on the basis that it is third party personal data, and its disclosure would breach data protection law. The Commissioner's decision is that the Trust is not entitled to rely on section 40(2) to withhold the information requested under part one of the request for information, and therefore breached section 1 of FOIA by failing to provide it. However, the Commissioner has decided that the Trust is entitled to rely on section 40(2) of FOIA to withhold the information requested under parts two and three of the request. The Commissioner has also recorded a procedural breach of section 17 of FOIA, as the

Trust failed to issue the complainant with a refusal notice in respect of parts two and three of the request within the statutory time limits. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation: Disclose the information requested in part one of the complainant's request for information. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

FOI 17: Complaint upheld FOI 40(2): Complaint partly upheld FOI 1: Complaint upheld

[Decision notice IC-109644-G1G4](#)

### [General Medical Council](#)

13 Sep 2022, Health

The Commissioner's decision is that the General Medical Council (GMC) is entitled to rely on section 40(2) of FOIA to withhold the requested information as it is the personal data of a third party and disclosure would be unlawful. The GMC is not required to take any corrective steps.

FOI 40: Complaint not upheld

[Decision notice IC-171399-N6R2](#)

### [Essex Partnership University NHS Foundation Trust](#)

12 Sep 2022, Health

The complainant made a request for information relating to the Review of Post-18 Education and Funding. The Department for Education (DfE) confirmed that it does not hold some of the requested information (part 1 of the request) and refused to comply with part of the request as it does not consider it to be a request for recorded information (part 2 of the request). The Commissioner considers that DfE does not hold the information requested at part 1 of the request under section 1(1)(a) FOIA and as part 2 of the request asks for an assurance rather than recorded information DfE is not obliged to respond under FOIA. This is because FOIA only applies to information that a public authority already holds in recorded form at the time of a request. The Commissioner requires no steps to be taken.

FOI 1: Complaint not upheld

[Decision notice IC-151762-V5H7](#)

### [Care Quality Commission](#)

9 Sep 2022, Health

The complainant made a request for information relating to hospital inspectors in the hospital directorate in the North East Region. The Care Quality Commission (CQC) refused to comply with the request under section 12 FOIA as it said that it would exceed the cost limit to do so. The Commissioner considers that the CQC was correct to refuse to comply with the request under section 12 FOIA. The Commissioner requires no steps to be taken.



FOI 12: Complaint not upheld

[Decision notice IC-166094-D5K3](#)

[Essex Partnership University NHS Foundation Trust](#)

8 Sep 2022, Health

The complainant made a request for information relating Transcranial magnetic stimulation (TMS) referrals. EPUT confirmed that some information was not held (part 1 of the request) and refused to comply with part of the request under section 12 FOIA as it said that it would exceed the cost limit to do so (part 2 of the request). The Commissioner considers that EPUT does not hold any of the requested information under section 1(1)(a) FOIA as part 2 of the request asks for the same information as part 1 just in a slightly different way. The Commissioner requires no steps to be taken.

FOI 1: Complaint not upheld

[Decision notice IC-153256-F4F1](#)

[NHS England](#)

7 Sep 2022, Health

The complainant requested copies of any correspondence that NHS England had inherited from a predecessor body and a particular NHS Trust about approval of 'Campus and Collaborative' agreements. By the date of this notice, NHS England had not issued a substantive response to this request. The Commissioner's decision is that NHS England has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days. The Commissioner requires NHS England to take the following step to ensure compliance with the legislation: NHS England must provide a substantive response to the request in accordance with its obligations under FOIA.

FOI 10: Complaint upheld

[Decision notice IC-184195-S6K5](#)

[NHS England](#)

5 Sep 2022, Health

The complainant has requested information relating to the internal review into Healthcare Safety Investigation Branch's ("HSIB") maternity services investigations carried out by a named doctor. NHS England ("NHSE") disclosed some of the information, but withheld other information, under section 40(2) and section 41(1) of FOIA. The Commissioner's decision is that NHSE has correctly applied section 41(1) of FOIA. The Commissioner does not require NHSE to take any further steps.

FOI 41: Complaint not upheld

[Decision notice IC-143281-N9D7](#)

[University Hospitals Coventry and Warwickshire NHS Trust](#)

2 Sep 2022, Health



The complainant has requested information about its vascular services self-assessment from University Hospitals Coventry and Warwickshire NHS Trust ('the Trust'). The Trust released relevant information but the complainant considers that it holds further information relevant to two parts of their request. The Commissioner's decision is as follows: On the balance of probabilities, the Trust has disclosed all the information it holds that falls within scope of Q2 and Q4 of the complainant's request and has complied with section 1(1) of FOIA. The Trust breached section 10(1) as it did not comply with section 1(1) within 20 working days. The Commissioner does not require the Trust to take any corrective steps.

FOI 10: Complaint upheld FOI 1: Complaint not upheld

[Decision notice IC-138263-S1G4](#)

### [UK Health Security Agency](#)

30 Aug 2022, Health

The complainant requested copies of internal correspondence relating to a previous appeal he'd made to the Information Rights Tribunal along with any review or assessment of the appeal outcome. The UK Health Security Agency stated that it did not hold some of the information and refused the remainder of the request as vexatious. The Commissioner's decision is that UKHSA has failed to demonstrate that the request was vexatious and consequently was not entitled to rely on section 14(1) of FOIA to refuse it. The Commissioner requires UKHSA to take the following steps to ensure compliance with the legislation: issue a fresh response, to parts 1 and 2 of the request that does not rely on section 14(1) of FOIA.

FOI 14: Complaint upheld

[Decision notice IC-126722-M9F1](#)

### [UK Health Security Agency](#)

30 Aug 2022, Health

The complainant has requested information relating to Department of Health and Social Care (DHSC) 'Performance Update' documents. The Commissioner's decision is that UK Health Security Agency (UKHSA) has not demonstrated that complying with the request would impose a grossly oppressive burden, and therefore is not entitled to rely on section 14(1) to withhold the requested information. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation. Disclose the requested information subject to any relevant redactions. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

FOI 14(1): Complaint upheld

[Decision notice IC-150482-Z7Q5](#)

### [Newcastle Upon Tyne Hospitals NHS Foundation Trust](#)

25 Aug 2022, Health

The complainant has requested contract information associated with particular administration costs. Newcastle upon Tyne Hospitals NHS Foundation Trust ('the Trust') has disclosed information within scope of three parts of the request and withheld the information requested in the fourth part under section 43(2) of FOIA, which concerns prejudice to commercial interests. The Commissioner's decision is as follows: The Trust is entitled to withhold the information under section 43(2) of FOIA and the public interest favours maintaining this exemption. The Commissioner does not require the Trust to take any corrective steps.

FOI 43: Complaint not upheld

[Decision notice IC-142547-F5M7](#)

### [Medicines and Healthcare Products Regulatory Agency](#)

25 Aug 2022, Health

The complainant requested information from the Medicines & Healthcare products Regulatory Agency ("MHRA") held by staff working on the licensing of and/or pharmacovigilance for COVID-19 vaccines about suspected adverse cardiac reactions. MHRA refused the request as it considered that compliance with it would exceed the cost limit under section 12(1) FOIA. The Commissioner's decision is that MHRA has correctly cited section 12(1) FOIA, in response to the request. He also finds that it has complied with its obligations under section 16(1) FOIA to provide adequate advice and assistance to the complainant. The Commissioner does not require the public authority to take any further steps to ensure compliance with the legislation.

FOI 12(1): Complaint not upheld FOI 16: Complaint not upheld

[Decision notice IC-130948-D4K3](#)

### [Medicines and Healthcare Products Regulatory Agency](#)

19 Aug 2022, Health

The complainant made a request for information relating to how many LNP (lipid nanoparticles) were contained (on average) within a single shot of BNT162b2 and their respective sizes in order to meet with Health and Safety of patients receiving the shots. MHRA has confirmed that it does not hold the information requested under section 1(1)(a) FOIA. The Commissioner considers that MHRA were correct to confirm that it does not hold the requested information. The Commissioner requires no steps to be taken.

FOI 1: Complaint not upheld

[Decision notice IC-147776-F3P1](#)

### [Medicines and Healthcare Products Regulatory Agency](#)

19 Aug 2022, Health

The complainant made a request for information relating to ingredients of all Covid-19 vaccines. MHRA has provided a link to the patient information leaflets held which list the ingredients for the various Covid-19 vaccines. The complainant considers that

there are other ingredients in the vaccines not listed in the information to which he was provided links to. At internal review MHRA upheld its original response. The Commissioner considers that MHRA has confirmed and provided the recorded information it holds falling within the scope of the request under section 1(1)(a) and (b) FOIA. The Commissioner requires no steps to be taken.

FOI 1: Complaint not upheld

[Decision notice IC-146394-J9K4](#)

#### [Royal Berkshire NHS Foundation Trust](#)

19 Aug 2022, Health

The complainant requested information about investigations and reports concerning Covid-19 testing at the Royal Berkshire Hospital. By the date of this notice, Royal Berkshire NHS Foundation Trust (“the Trust”) had not issued a substantive response to this request. The Commissioner’s decision is that the Trust has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days. The Commissioner requires the Trust to take the following step to ensure compliance with the legislation: The Trust must provide a substantive response to the request in accordance with its obligations under FOIA.

FOI 10: Complaint upheld

[Decision notice IC-182778-G2N5](#)

#### [NHS England](#)

18 Aug 2022, Health

The complainant made a request for a copy of NHS England’s Quality Metrics to optimise their services for mesothelioma patients. NHS England provided information in response to the request. Following internal review, as the complainant did not consider he had been provided with the information had had requested, NHS England confirmed that it did not hold the information requested under section 1(1)(a) FOIA. The Commissioner considers that NHS England were correct to confirm that it does not hold the requested information. The Commissioner requires no steps to be taken.

FOI 1: Complaint not upheld

[Decision notice IC-148159-G6C4](#)

#### [University College London Hospital NHS Foundation Trust](#)

18 Aug 2022, Health

The complainant requested information, for a specified period of time, about the number of patients admitted to the ITU, how many of those had died and how many referrals there had been to the coroner. By the date of this notice, University College London Hospitals NHS Foundation Trust (“the Trust”) had not issued a substantive response to part 2 of this request. The Commissioner’s decision is that the Trust has breached section 10(1) of FOIA in that it failed to provide a valid response to both part 1 and part 2 of the request within the statutory time frame of 20 working days.

The Commissioner requires the Trust to take the following step to ensure compliance with the legislation: The Trust must provide a substantive response to part 2 of the request in accordance with its obligations under FOIA.

FOI 10: Complaint upheld

[Decision notice IC-183293-F1J6](#)

### [Care Quality Commission](#)

16 Aug 2022, Health

The complainant has requested information about a property that he owns, but does not occupy. The Care Quality Commission refused to confirm or deny holding information within the scope of the request and relied on section 40(5B) of FOIA (third party personal data) in order to do so. The Commissioner's decision is that the CQC is entitled to rely on section 40(5B) of FOIA to neither confirm nor deny that it holds any information relevant to the request. The Commissioner does not require further steps.

FOI 40(5B): Complaint not upheld

[Decision notice IC-150030-R6F3](#)

### [Medicines and Healthcare Products Regulatory Agency](#)

15 Aug 2022, Health

The complainant has requested the names of licenced importers of co-proxamol over a 10 year period. The Medicines and Healthcare products Regulatory Agency (MHRA) withheld the information under section 43(2) of FOIA, which concerns commercial interests. MHRA subsequently confirmed that it is also relying in section 41(1) of FOIA to withhold the information, as it considers it to be information provided to MHRA in confidence. The Commissioner's decision is as follows: The withheld information does not engage the exemptions under section 41(1) or 43(2) of FOIA. The Commissioner requires MHRA to take the following step to ensure compliance with the legislation: Disclose to the complainant the information it is withholding under the above two exemptions.

FOI 43: Complaint upheld FOI 41: Complaint upheld

[Decision notice IC-118690-Y1J3](#)

### [Royal Berkshire NHS Foundation Trust](#)

9 Aug 2022, Health

The complainant requested information about Covid outbreaks at the hospital during a specified period of time. By the date of this notice, Royal Berkshire NHS Foundation Trust ("the Trust") had not issued a substantive response to this request. The Commissioner's decision is that The Trust has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days. The Commissioner requires the Trust to take the following step to ensure compliance with the legislation. The Trust must provide a substantive response to the request in accordance with its obligations under FOIA.

FOI 10: Complaint upheld

## [Decision notice IC-179689-W8F6](#)

### [Hywel Dda University Health Board](#)

9 Aug 2022, Health

The complainant requested a copy of an investigation report produced following concerns raised in relation to physiotherapy practices at Glangwili General Hospital in the initial stages of the COVID-19 pandemic. Hywel Dda University Health Board ('the Health Board') refused the request on the basis of section 41(1)(b) (information provided in confidence), section 40(1) (personal data of the applicant), section 40(2) (third party personal data), and section 38(1)(a) (endangerment to health). The Commissioner exercised his discretion and considered whether section 31 (prejudice to law enforcement) applied. His decision is that the Health Board was entitled to refuse to disclose the withheld information in reliance on section 31 FOIA, and in particular section 31(1)(g) together with section 31(2)(j) FOIA to refuse the information which was not the personal data of the applicant.

FOI 31: Complaint not upheld

[Decision notice IC-115166-G5T4](#)

### [General Dental Council](#)

5 Aug 2022, Health

The complainant has requested information on a tendering exercise conducted by the General Dental Council in 2014 for in-guise investigations. The GDC provided some information, stated some information was not held, cited section 12 in relation to parts of the request that would require further examination to determine if information was held, and withheld the names of bidders under section 43(2) of the FOIA. The Commissioner's decision is that the GDC has correctly cited section 12(1) of the FOIA in relation to parts 3, 4 and 5 of the request. In relation to section 43(2) of the FOIA the Commissioner finds the exemption is not engaged. The Commissioner requires the public authority to disclose the information in the weighting model that has been withheld under section 43(2) i.e. the names of the bidders.

FOI 43: Complaint upheld FOI 12: Complaint not upheld

[Decision notice IC-127866-W2G8](#)

### [Bedfordshire Hospitals NHS Foundation Trust](#)

28 Jul 2022, Health

The complainant made a request for information relating to pregnancy loss and maternity services at Bedford Hospital. The request was made on 11 May 2022 and the Trust has failed to provide a response. The Commissioner considers that the Trust has breached section 10 FOIA in the handling of this request. The Commissioner requires the public authority to provide a response to the request in compliance with FOIA.

FOI 10: Complaint upheld

[Decision notice IC-178352-K9R7](#)

### [Black Country Healthcare NHS Foundation Trust](#)

27 Jul 2022, Health

The complainant has requested information relating to spending for translation and interpretation services. The Commissioner's decision is that the Trust failed to respond to the request for information within 20 working days and therefore breached section 10 (time for compliance with the request) of FOIA. The Commissioner is satisfied that the request has now been responded to. The Commissioner does not require the Trust to take any further steps.

FOI 10: Complaint upheld

[Decision notice IC-141069-J5Z9](#)

### [Imperial College Healthcare NHS Trust](#)

27 Jul 2022, Health

The complainant requested information regarding various liver biopsy and MRI procedures and complications. By the date of this notice the Imperial College Healthcare NHS Trust ("the Trust") had not issued a substantive response to this request. The Commissioner's decision is that the Trust has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days. The Commissioner requires the Trust to take the following step to ensure compliance with the legislation. The Trust must provide a substantive response to the request in accordance with its obligations under FOIA.

FOI 10: Complaint upheld

[Decision notice IC-179959-R1L0](#)

### [Medicines and Healthcare Products Regulatory Agency](#)

27 Jul 2022, Health

The complainant has requested demographic information about those who have had adverse reactions to the Covid-19 vaccine. The Medicines and Healthcare Products Regulatory Agency stated that some of the information was already available elsewhere, but relied upon section 22 (intended for publication) of FOIA in order to withhold the remaining information. During the course of the investigation it subsequently disclosed most of the information. The Commissioner's decision is that the MHRA has failed to obtain the correct objective reading of element [1] of the request and has therefore breached section 16 of FOIA. The MHRA also failed to disclose information within 20 working days and therefore breached section 10 of FOIA. The Commissioner requires the MHRA to take the following steps to ensure compliance with the legislation: issue a fresh response to element [1] of the request based on the interpretation set out in paragraph 20 of this notice.

FOI 10: Complaint upheld FOI 16: Complaint upheld

[Decision notice IC-134002-L6D2](#)

### [NHS England](#)

25 Jul 2022, Health



The complainant has requested information relating to any contracts NHS England (NHSE) awarded to Topwood Limited. NHSE confirmed that it does not hold any information that falls within the scope of the request. The Commissioner is satisfied that, on the balance of probabilities, NHSE does not hold any information that falls within the scope of the request. The Commissioner does not require NHSE to take any further steps.

FOI 1: Complaint not upheld

[Decision notice IC-137321-C4M5](#)

### [NHS Clinical Commissioning Board \(NHS England\)](#)

25 Jul 2022, Health

The complainant requested information relating to the commissioning of specialised metabolic services. By the date of this notice the NHS Commissioning Board (“the NHS”) had not issued a substantive response to this request. The Commissioner’s decision is that the NHS has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.

FOI 10: Complaint upheld

[Decision notice IC-177204-T1Q4](#)

### [South Central Ambulance NHS Trust](#)

25 Jul 2022, Health

The complainant has requested information broadly relating to a previous contract. South Central Ambulance Service NHS Foundation Trust (“the Trust”) responded to say that it held no information beyond what had already been provided. The Commissioner’s decision is that two of the six elements of the request were not valid for the purposes of FOIA. In respect of elements [4], [5] and [6], the Commissioner is satisfied that the information is reasonably accessible to the complainant. In respect of element [1], the Commissioner does not consider that the Trust has demonstrated that it has previously provided this information and therefore has, on the balance of probabilities, failed to comply with section 1(1) of FOIA. The Commissioner also finds that the Trust breached section 17 of FOIA in responding to the request. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation. Either provide the complainant with the information in scope of element [1] or issue a refusal notice that complies with section 17 of FOIA.

FOI 17: Complaint upheld FOI 21: Complaint not upheld FOI 1: Complaint partly upheld

[Decision notice IC-126738-L5Z9](#)

### [Medicines and Healthcare Products Regulatory Agency](#)

22 Jul 2022, Health

The complainant made a request for correspondence between a named individual and the MHRA from 1st March 2022 referencing COVID-19 vaccines or Yellow Card data. The request was made on 6 April 2022 and MHRA have failed to provide a

response. The Commissioner considers that the MHRA has breached section 10 FOIA in the handling of this request. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation. Provide a response to the request in compliance with FOIA.

FOI 10: Complaint upheld

[Decision notice IC-174035-P1B1](#)

#### [West London NHS Trust](#)

22 Jul 2022, Health

The complainant requested information from West London NHS Trust (“the Trust”) relating to expenses and accommodation costs. By the date of this notice the Trust had failed to provide a substantive response to this request. The Commissioner’s decision is that the Trust has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory timeframe of 20 working days. The Commissioner requires the the Trust to respond to the complainant’s response in accordance with the FOIA. The the Trust must take these steps within 35 calendar days of the date of this decision notice.

FOI 10: Complaint upheld

[Decision notice IC-174601-P6R9](#)

#### [West London NHS Trust](#)

21 Jul 2022, Health

The complainant made 11 requests over the course of six months. West London NHS Foundation Trust (“the Trust”) eventually refused all 11 requests as vexatious. The Commissioner’s decision is that the Trust has failed to provide any evidence to support its use of section 14(1) of FOIA. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation: issue fresh responses, to all 11 requests identified in the annex to this notice, that do not rely on section 14(1) of FOIA.

FOI 14: Complaint upheld

[Decision notice IC-132607-L3D0](#)

#### [Medicines and Healthcare Products Regulatory Agency](#)

21 Jul 2022, Health

The complainant has requested information about instances of hearing loss following COVID-19 vaccination. Medicines and Healthcare products Regulatory Agency (MHRA) provided some relevant information and indicated it was withholding other information to protect people’s privacy and because it was exempt information under section 35 of FOIA (formulation of government policy, etc). The Commissioner’s decision is as follows: On the balance of probabilities, at the time of the request MHRA did not hold the specific report the complainant requested. However, MHRA breached section 10(1) as it did not comply with section 1(1)(a) – ie confirm to the complainant that it did not hold the requested information - within the required timescale. The Commissioner does not require MHRA to take any corrective steps.



FOI 10: Complaint upheld FOI 1: Complaint not upheld

[Decision notice IC-119011-R0M2](#)

### [NHS Commissioning Board](#)

19 Jul 2022, Health

The complainant requested information regarding all records of communication regarding a video made by the NHS, which has since been deleted. By the date of this notice, the NHS Commissioning Board (“the NHS”) had not issued a substantive response to this request. The Commissioner’s decision is that the NHS has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.

FOI 10: Complaint upheld

[Decision notice IC-176635-H7F5](#)

### [NHS Digital](#)

18 Jul 2022, Health

The complainant has requested information about NHS 111 and the NHS Pathways Clinical Governance Group. The Commissioner’s decision is that, on the balance of probabilities, NHS Digital has disclosed the information which it holds within the scope of part 4 of the request. The Commissioner does not require NHS Digital to take any steps.

FOI 1: Complaint not upheld

[Decision notice IC-138344-B4T0](#)

### [Tees, Esk & Wear Valleys NHS Foundation Trust](#)

18 Jul 2022, Health

The complainant requested information from Tees Esk and Wear Valleys NHS Foundation Trust (“the Trust”) relating to reports following the death of [redacted]. By the date of this notice the Trust had failed to provide a substantive response to this request. The Commissioner’s decision is that the Trust has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory timeframe of 20 working days. The Commissioner requires the Trust to respond to the complainant’s response in accordance with the FOIA. The Trust must take these steps within 35 calendar days of the date of this decision notice.

FOI 10: Complaint upheld

[Decision notice IC-177688-X8P0](#)

### [West London Mental Health NHS Trust](#)

12 Jul 2022, Health

The complainant requested information regarding specific requirements or qualifications for voluntary psychotherapist to work with the West London Mental Health Trust (“the Trust”). By the date of this notice the Trust had not issued a substantive response to this request. The Commissioner’s decision is that the Trust has breached section 10(1) of FOIA in that it failed to provide a valid response to the

request within the statutory time frame of 20 working days. The Commissioner requires the Trust to take the following step to ensure compliance with the legislation. The Trust must provide a substantive response to the request in accordance with its obligations under FOIA.

FOI 10: Complaint upheld

[Decision notice IC-176315-S7D7](#)

### [Norfolk and Norwich Hospitals NHS Foundation Trust](#)

7 Jul 2022, Health

The complainant requested information relating to translation and interpretation services. The Commissioner's decision is that Norfolk and Norwich University Hospitals NHS Foundation Trust ('the Trust') failed to respond to the request for information within 20 working days and has therefore breached section 10 (time for compliance with the request) of FOIA. The Commissioner is satisfied that the Trust has now provided a response to the request. Therefore the Commissioner does not require the Trust to take any further steps.

FOI 10: Complaint upheld

[Decision notice IC-140537-M7W1](#)

### [Birmingham Women's and Children's Hospital NHS Foundation Trust](#)

6 Jul 2022, Health

The complainant has requested information from Birmingham Women's and Children's NHS Foundation Trust (the Trust) concerning its policies, processes and complaints. The Trust did not provide a response to the complainant until the Commissioner intervened. When the Trust did respond, it disclosed most of the requested information but refused to provide the remainder under section 12 FOIA (cost of compliance exceeds appropriate limit). The Commissioner's decision is that, on the balance of probability, the Trust has now provided all the information it holds (apart from what was withheld under section 12 FOIA) to the complainant and has complied with section 1 FOIA. However, it did so beyond the legislative timeframe and therefore breached section 10 FOIA. The Commissioner has also decided that the Trust breached section 17(1) FOIA by not issuing a valid refusal notice within the appropriate timescale. The Commissioner finds that the Trust has cited section 12 appropriately, though late in the day, but failed to provide advice and assistance to the complainant and therefore breached section 16(1). Therefore the Commissioner does not require the public authority to take any further steps.

FOI 17: Complaint upheld FOI 16(1): Complaint upheld FOI 1: Complaint not upheld FOI 12: Complaint not upheld FOI 10(1): Complaint upheld

[Decision notice IC-122990-S9H3](#)

### [Norfolk and Norwich University Hospitals NHS Foundation Trust](#)

5 Jul 2022, Health

The complainant requested information from Norfolk and Norwich University Hospitals NHS Foundation Trust ("the Trust") relating to its data retention policies. By

the date of this notice the Trust had failed to provide a substantive response to this request. The Commissioner's decision is that the Trust has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory timeframe of 20 working days. The Commissioner requires the Trust to provide a substantive response to the request in accordance with its obligations under FOIA.

FOI 10: Complaint upheld

[Decision notice IC-156868-C9S8](#)