



Humber and North Yorkshire
Health and Care Partnership



Humber and
North Yorkshire
Integrated Care Board (ICB)

Freedom of Information (FOI) Quarterly Report

Quarter Three 2022/23 covering the
period: 1 October 2022 to 31 December
2022

Freedom of Information Delivery Manager

Introduction

This report provides the quarter three 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 October to 31 December 2022 and a comparison against the previous quarter.

Volume of Requests and Timeliness of Responses

As the ICB was not established until 1 July 2022, no comparison against previous years is available for the ICB and it is considered that previous CCG data would not be suitable for comparison.

	Quarter 1 2022/23	Quarter 2 2022/23	Quarter 3 2022/23
Requests Received	Apr-Jun	Jul – Sep	Oct – Dec
Total number of FOI requests received:	N/A	72	89
Total Number of FOI Processed	N/A	71*	88**
Number processed within 20 working days	N/A	71	88
Percentage FOI processed within 20 working days	N/A	100%	100%
Average time taken to process (days)	N/A	14	13

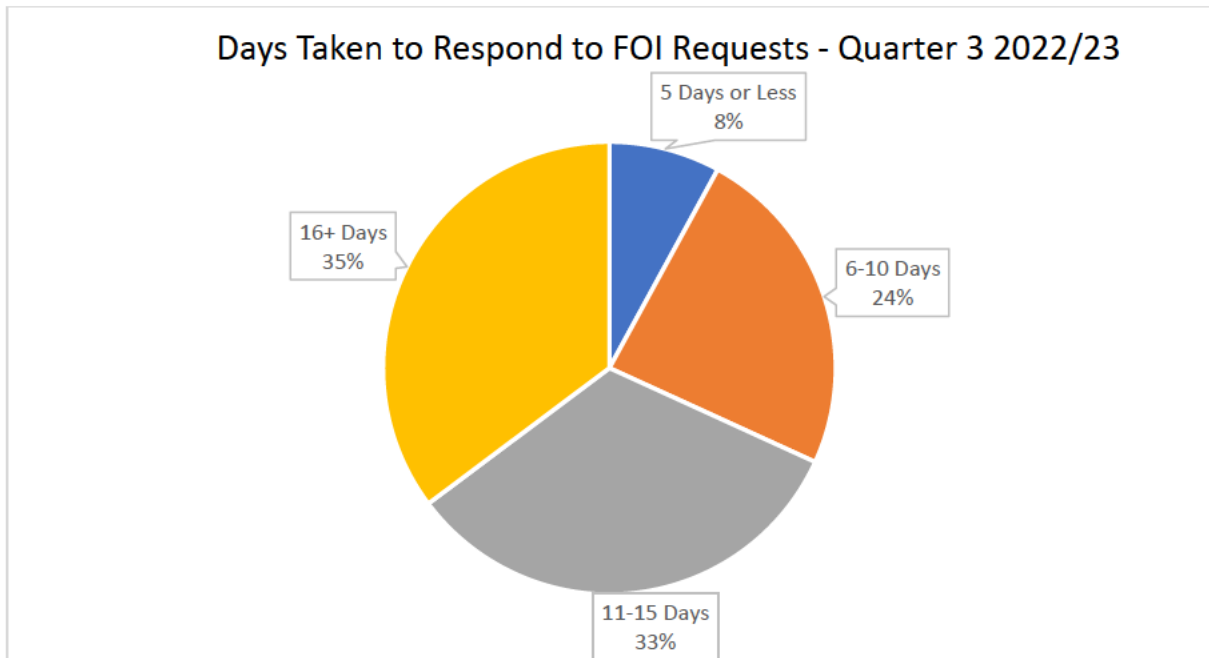
*Please see previous report for details.

**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

Quarter three 2022/23 has seen an increase of 23.9% in the number of FOIA requests received and processed on the number of requests received and processed in quarter two 2022/23. Yet the average number of days to process the requests has decreased by 1 day.

A 100% compliance with the statutory 20-working day timeframe has been maintained throughout quarter three, with an average closure time of 13 days. The chart below illustrates the numbers of days taken to complete FOI requests.



It is acknowledged that response times continue to be compliant with statutory timescales due to continuing support from colleagues and teams whose capacity has been impacted by their own workloads and organisational changes; and that support is greatly appreciated.

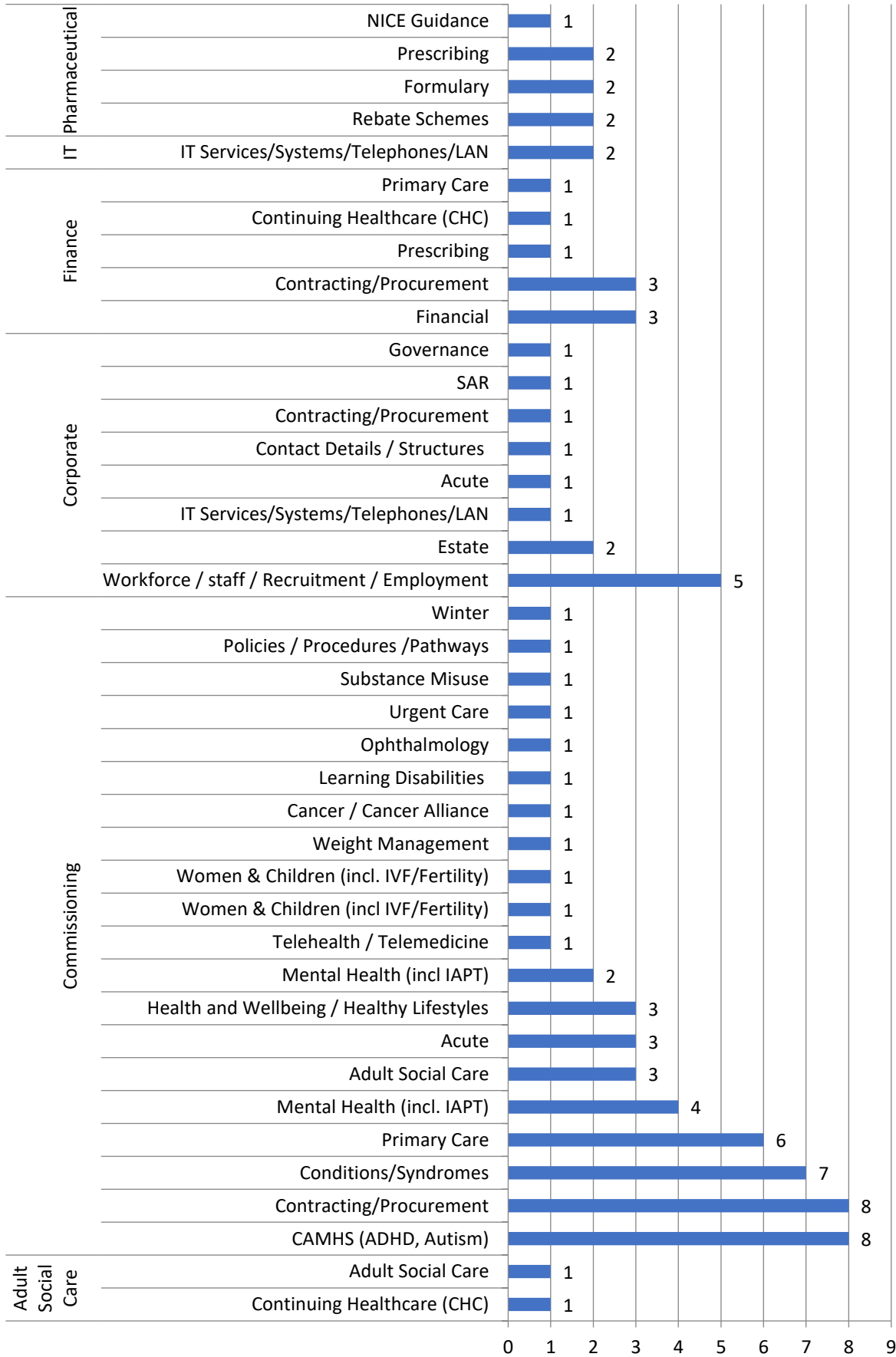
Subject Area of Request

The ICB has received FOI requests on various topics and in some cases the requests contain multiple questions for different types of information.

The FOI Team regularly review and update reporting parameters to ensure the most relevant information is provided in reports. During quarter three, the subject area and themes options were slightly expanded. Incoming FOI requests are recorded under a choice of 8 subject areas and 55 themes, many of which are detailed in the chart below. The requests received are diverse and singular, however, the predominant subject area in quarter three was Commissioning, with a total of 55 requests, 16 of which related to Contracting/Procurement, and Child and Adolescent Mental Health Services (CAMHS, ADHD, Autism), thus proving to be popular topics.

For a full illustration of the various topics for quarter three please see the chart below:

FOIs by Category - Quarter 3 2022/23

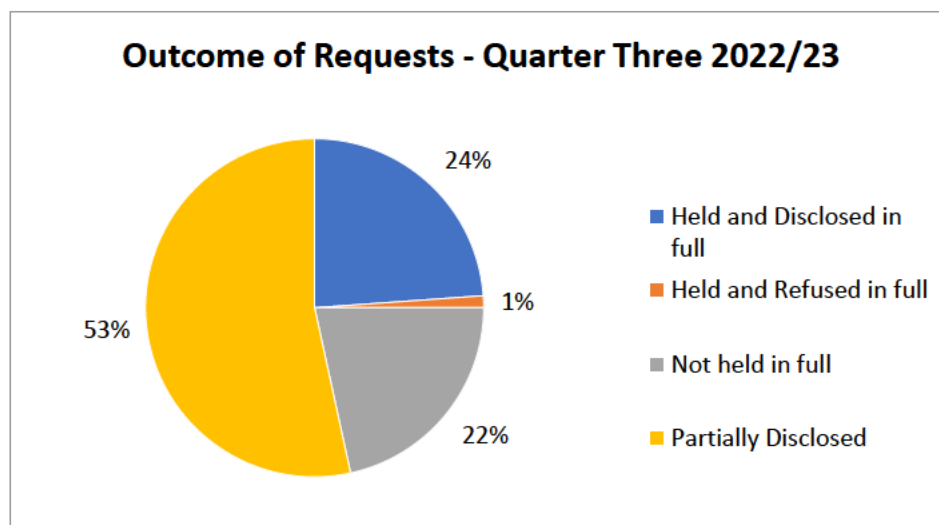


Outcome of Requests Processed

The outcomes of the requests processed during quarter three are illustrated below and include a comparison against the previous quarter:

	Quarter 1	Quarter 2	Quarter 3
Information Held and Disclosed in Full	N/A	22 (31%)	21 (24%)
Information Not Held by ICB	N/A	14 (20%)	19 (22%)
Information Held and Refused in Full – Exempt	N/A	0 (0%)	1 (1%)
Partially Disclosed as Not Held or an Exemption applied	N/A	35 (49%)	47 (53%)
Total Number of Requests	N/A	71	88

The following chart displays the proportion of requests by outcome for quarter three 2022/23.



During quarter three, of the 88 requests processed, 19 (22%) sought information that was not held by the ICB. 21 (24%) received information in full, 47 (53%) 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%) case information was withheld in full as one or more exemptions applied. In total, 21 (24%) of the requests had one or more exemptions applied.

Exemptions

There were 26 exemptions applied in total during the quarter. During quarter three the most commonly applied exemptions were Section 21 (Information accessible to

applicant by other means) with 12 instances, followed by Section 12 (Exemption where cost of compliance exceeds appropriate limit) and Section 40 (Personal information), with 6 and 5 instances respectively. The application of Section 21 demonstrates the ICB is able to redirect requesters to information which is already accessible to the applicant.

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	Quarter 3
12 - Cost of compliance	N/A	3	6
14 - Vexatious or Repeat Request	N/A	0	1
21 - Accessible by other means	N/A	6	12
22 - Future Publication	N/A	1	2
40 – Personal Data	N/A	4	5
41 – Information Provided in Confidence	N/A	1	0
43 – Commercial Interests	N/A	1	0
Total	N/A	16	26

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:

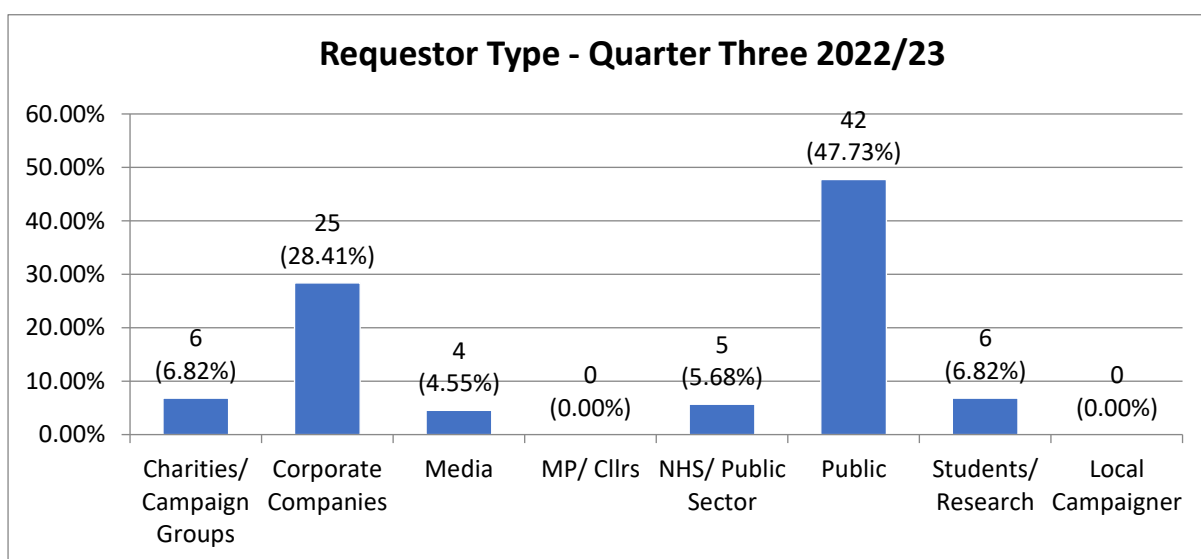
	Quarter 1	Quarter 2	Quarter 3
NHS-Acute	N/A	16	23
NHS-Mental Health	N/A	9	6
NHS Other	N/A	8	7
NHSE/I	N/A	3	6
GPs	N/A	0	3
Local Authority	N/A	6	18
NHS Digital	N/A	1	2
Independent Sector	N/A	8	8
CSU	N/A	0	0

Other	N/A	1	6
Total	N/A	52	79

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 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 was one Internal Review requested received during quarter three between 1 October and 31 December 2022.

The ICB instigated an Internal Review of the response, in particular the application of the section 40 exemption as requested by the applicant. Having reviewed the request and the response, the ICB’s position remained unchanged, and the application of the section 40 exemption was maintained.

Issues

The effectiveness of the processes and systems has been demonstrated throughout the quarter and is evidenced by the information provided in the report. Relationships with teams across the new larger organisation have continued to build and strengthen. It is anticipated that the process will become more effective as team structures become fully established.

Training

No FOIA specific training sessions were delivered during quarter three 2022/23. General and/or more 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.

Further to the update provided in the previous quarter's report, work has commenced, with support from IT departments across the ICB, to migrate all FOIs records into one central 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. North Yorkshire and York data has migrated, however, North Lincolnshire data is currently outstanding.

Publication Scheme

A review of the ICB Publication Scheme has been undertaken and recommendations have been presented to the relevant colleagues to address any gaps identified in the publication scheme. This is an on-going piece of work, which is also influenced by the requests for information.

Customer Feedback

The FOI Team provide an electronic survey link for the collection of anonymous feedback which is sent with every FOI response email. Zero responses were returned during quarter three via the online survey. However, it was noted that an applicant submitted the following feedback by email during quarter three "This is just what I was interested in - thank you".

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.

During quarter three the ICO issued 92 decisions notices to the health sector compared to 42 in the previous quarter.

Use of Section 40(2) (third party personal data) and Section 41 (breach of confidence)

One case that may be of particular interest is [Decision notice IC-175124-W4W1](#), where details of infants who died of pertussis in 2012 had been requested and the public authority relied on section 41 (breach of confidence) and 40(2) of FOIA (third party personal data) to withhold the information. The Commissioner's decision was that the authority had not demonstrated either exemption was engaged and

consequently was not entitled to rely on these exemptions. To ensure compliance with legislation, the Commissioner requires the public authority to take steps to disclose the requested information to the complainant. On this occasion the Commissioner's view was that if the infants cannot be identified, disclosure will not breach their confidence, nor would it reveal the personal data of their surviving relatives. However, it should be noted that the Commissioner could not consider that there was a realistic possibility of identification – except by those who are already in possession of the information being withheld, without geographical or other locator information that would allow the withheld information to be segmented out.

Use of Section 12 (Cost of compliance exceeds appropriate limit)

[Decision notice IC-150101-Z2Z4](#) gives details of a case where information was requested relating to companies that had used the 'VIP' route for gaining covid related contracts. The public authority disclosed the names of the 50 suppliers but could not confirm or deny whether it held information relating to the names of ministers or senior officials who referred the companies to the 'VIP' route, and in doing so, relied on section 12(2) of FOIA (cost of compliance exceeds appropriate limit). The public authority provided an estimate on the number of electronic files that would need to be assessed, however, the Commissioner's view is that the estimate must be realistic and based on cogent evidence. The Commissioner's view is that even if all 70,000 files contain information about the 50 suppliers, the Commissioner considers that the authority could have conducted a sampling exercise to give an approximate indication, of how long it would take to locate and/or extract the information and provide a breakdown of the timeframe and the cost limit involved in determining whether or not it holds the information.

Ultimately, the Commissioner's decision is that the authority failed to demonstrate that section 12(2) was engaged and required the authority to take steps to ensure compliance with the legislation.

Use of Section 14(1) Vexatious Requests

In the case of [Decision notice IC-150005-B8G3](#), the complainant requested information from NHS Digital relating to a patient's NHS details and previous addresses. The request was refused under section 14(1) of FOIA (vexatious requests). The Commissioner's decision was that the request was vexatious and therefore NHS Digital was entitled to rely upon section 14(1) of FOIA to refuse it. Some of the points the Commissioner considered for this case are as follows:

- NHS Digital provided evidence that the complainant submitted 352 similarly worded requests prior to the date of their application of section 14(1), up to 94 requests in a month and often several requests a day.
- In the Commissioner's view, the requester showed no signs of reducing the number of requests they submitted and believes, from the evidence provided, that should NHS Digital have complied with the requests, it would have likely resulted in further correspondence from the complainant. There was no evidence to suggest that providing the complainant with their requested information in the

past had done anything to reduce the quantity of requests or to satisfy the complainant.

- The Commissioner also failed to see how the disclosure of the requested information would benefit the wider public. The Commissioner accepts that the complainant likely has a particular interest in the requested information as the information relates to the complainant's professional capacity. However, the number of information requests, of such a broad nature, that the complainant has made to NHS Digital is excessive and will cause a significant burden to NHS Digital.

Further Information to Note

The following information relates to the FOI Act and has been extracted from a PDP FOI News update:

ICO investigated potential FOI criminal offences by government departments

A response to an FOI request has revealed that in the last few years, the ICO has investigated potential section 77 FOIA offences by government departments. The request, made via the public WhatDoTheyKnow platform, was for information on "all Section 77 investigations carried out regardless of outcome for all government departments". The ICO's response appeared to suggest the existence of four separate investigations. The details as to the circumstances under which the investigations were made are not known.

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 the period from 1 October to 31 December 2022, the ICB has received and processed 88 requests for information under FOI. All requests were processed within 20 working days and requests took an average of 13 days to process. In most cases (53%), 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 processed one request for an internal review during quarter three. The original response remained unchanged and the ICB maintained that the relevant exemption applied.

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

- continues to review the use of Section 40(2) in relation to small number suppression,

- produces estimates that are realistic and based on cogent evidence for the application of Section 12.

Freedom of Information Delivery Manager
February 2023

Appendix One

DECISION NOTICES **Health Sector Related (92 in total)** **Search for keywords: Adult Social Care (0)** **1 October 2022 to 31 December 2022**

[Devon Partnership NHS Trust](#)

22 Dec 2022, Health

The Commissioner's decision is that Devon Partnership NHS Trust is entitled to refuse the complainant's request about its consent policy under section 14(1) of FOIA as the request is vexatious.

FOI 14: Complaint not upheld

[Decision notice IC-192649-D2Q4](#)

[NHS England](#)

21 Dec 2022, Health

The public authority has failed to respond to this request within 20 working days, as specified under FOIA. The Commissioner requires it to provide the complainant with a response to this request within 35 calendar days in accordance with its obligations under FOIA.

FOI 10: Complaint upheld

[Decision notice IC-204591-S2Q8](#)

[NHS Derby and Derbyshire Integrated Care Board](#)

21 Dec 2022, Health

The Commissioner's decision is that by virtue of section 3(2)(a) of FOIA, the ICB does not hold the requested information about an Enhanced Access Services survey as it holds this information solely on behalf of Primary Care Networks.

FOI 3: Complaint not upheld

[Decision notice IC-200195-X9P0](#)

[NHS England](#)

20 Dec 2022, Health

The complainant requested information from NHS England (the public authority). The Commissioner's decision is that the public authority is entitled to rely on section 40(2) of FOIA to withhold some of the requested information. The Commissioner does not require the public authority to take any steps.

FOI 40: Complaint not upheld

[Decision notice IC-167113-L6W8](#)

[Chesterfield Royal Hospital NHS Foundation Trust](#)

20 Dec 2022, Health

The complainant has requested information about regarding vascular services arrangements. Chesterfield Royal Hospitals NHS Foundation Trust (the Trust) refused to comply with the request, citing section 14(1) (vexatious requests) of FOIA. The Commissioner's decision is that the Trust has incorrectly relied upon section 14(1) to refuse the request. The Commissioner requires the public authority to issue a fresh response to the request not relying upon section 14(1) FOIA.

FOI 14: Complaint upheld

[Decision notice IC-195908-W4C9](#)

[Aneurin Bevan University Health Board](#)

20 Dec 2022, Health

The complainant has requested a report into access to GP services and associated information. Aneurin Bevan University Health Board ('the Board') disclosed the report having redacted practice names under section 43(2) of FOIA, which concern commercial interests. The Board indicated it does not hold the remaining information. The Board subsequently confirmed it was also relying on section 41(1) which concerns information provided in confidence. The Commissioner's decision is that the names of specific GP practices were provided in confidence and are also commercially sensitive. The Board is therefore entitled to withhold this information under section 41(1) and section 43(2) of FOIA. The Commissioner finds that the Board does not hold the GP "action plan" the complainant requested but that it breached section 10(1) of FOIA as it did not communicate non-exempt information to the complainant within 20 working days. Finally, the Board's refusal notice was inadequate and did not comply with the requirements of section 17(1) of FOIA. The Commissioner requires the Board to take the following step to ensure compliance with the legislation: If it has not already done so, disclose the county borough level information which it has indicated to the Commissioner it is prepared to disclose.

FOI 17: Complaint upheld FOI 10: Complaint upheld FOI 43: Complaint not upheld FOI 41: Complaint not upheld FOI 1: Complaint not upheld

[Decision notice IC-159935-X5V2](#)

[Northern Ireland Ambulance Service](#)

19 Dec 2022, Health

The public authority has failed to respond to this request within 20 working days, as specified under FOIA. The Commissioner requires it to provide the complainant with a response to this request within 35 calendar days in accordance with its obligations under FOIA.

FOI 10: Complaint upheld

[Decision notice IC-204053-G4V4](#)

[Sandwell and West Birmingham Hospitals NHS Trust](#)

19 Dec 2022, Health

The public authority has failed to respond to this request within 20 working days, as specified under FOIA. The Commissioner requires it to provide the complainant with

a response to this request within 35 calendar days in accordance with its obligations under FOIA.

FOI 10: Complaint upheld

[Decision notice IC-203544-Q3Q2](#)

[Medicines and Healthcare Products Regulatory Agency](#)

15 Dec 2022, Health

The complainant has requested information about adverse reactions to the coronavirus vaccination. The Medicines & Healthcare Products Regulatory Agency ('MHRA') refused to comply with the request, citing section 14(1) (vexatious requests) of FOIA. The Commissioner's decision is that the MHRA has correctly relied upon section 14(1) to refuse the request. The Commissioner requires no steps to be taken.

FOI 14: Complaint not upheld

[Decision notice IC-166270-M1S2](#)

[Medicines and Healthcare Products Regulatory Agency](#)

15 Dec 2022, Health

The complainant has requested information about adverse reactions to the coronavirus vaccination. The Medicines & Healthcare Products Regulatory Agency ('MHRA') refused to comply with the request, citing section 14(1) (vexatious requests) of FOIA. The Commissioner's decision is that the MHRA has incorrectly relied upon section 14(1) to refuse. The Commissioner requires the public authority to issue a fresh response to the request not relying upon section 14(1) FOIA.

FOI 14: Complaint upheld

[Decision notice IC-171456-Q8W5](#)

[Medicines and Healthcare Products Regulatory Agency](#)

15 Dec 2022, Health

The complainant has requested information about adverse reactions to the coronavirus vaccination. The Medicines & Healthcare Products Regulatory Agency ('MHRA') refused to comply with the request, citing section 14(1) (vexatious requests) of FOIA. The Commissioner's decision is that the MHRA has incorrectly relied upon section 14(1) to refuse. The Commissioner requires the public authority to issue a fresh response to the request not relying upon section 14(1) FOIA.

FOI 14: Complaint upheld

[Decision notice IC-161306-N4V8](#)

[Imperial College Healthcare NHS Trust](#)

15 Dec 2022, Health

The complainant has requested information about disaster response plans. The above public authority provided some information, but the complainant considers more is held. The Commissioner's decision is that the public authority has complied with its obligations under section 1(1) of FOIA in response to some parts of the

request, but not to others. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation. In respect of elements [2], [5], [8], [9] and [13], the public authority must, for each element: Confirm explicitly whether or not it holds the requested information; and, if the information is held: Either provide a copy of that information or issue a refusal notice that complies with section 17 of FOIA.

FOI 1: Complaint partly upheld

[Decision notice IC-198223-V0H3](#)

[Imperial College Healthcare NHS Trust](#)

15 Dec 2022, Health

The complainant has requested information about disaster response plans. The above public authority provided some information, but the complainant considers more is held. The Commissioner's decision is that the public authority has complied with its obligations under section 1(1) of FOIA in response to some parts of the request, but not to others. The public authority also breached section 10 of FOIA as it failed to provide a response within 20 working days. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation. In respect of each of elements [6]-[19] (inclusive), the public authority must: confirm explicitly whether or not it holds the requested information and, if the information is held: Either provide a copy of that information or issue a refusal notice that complies with section 17 of FOIA.

FOI 10: Complaint upheld FOI 1: Complaint partly upheld

[Decision notice IC-198224-M4X6](#)

[Medicines and Healthcare Products Regulatory Agency](#)

14 Dec 2022, Health

The complainant has requested information about adverse reactions to the coronavirus vaccination. The Medicines & Healthcare Products Regulatory Agency ('MHRA') refused to comply with the request, citing section 14(1) (vexatious requests) of FOIA. The Commissioner's decision is that the MHRA has correctly relied upon section 14(1) to refuse the request. The Commissioner requires no steps to be taken.

FOI 14: Complaint not upheld

[Decision notice IC-159870-F8K5](#)

[NHS England](#)

14 Dec 2022, Health

The complainant made a request to NHS England for information relating to the use of NHS facilities for any private practice. The Commissioner's decision is that, on the balance of probabilities, NHS England holds no further recorded information relevant to the complainant's request and has complied with section 1(1) of FOIA. However, the Commissioner has recorded a procedural breach of section 10(1) of FOIA. The

Commissioner does not require NHS England to take any steps as a result of this decision notice.

FOI 10: Complaint upheld FOI 1: Complaint not upheld

[Decision notice IC-206720-M6D6](#)

[Medicines and Healthcare Products Regulatory Agency](#)

13 Dec 2022, Health

The Commissioner's decision is that MHRA is entitled to withhold information associated with its Yellow Card Scheme under section 41(1) of FOIA which concerns information provided in confidence. He does not require MHRA to take any steps.

FOI 41: Complaint not upheld

[Decision notice IC-194891-Y2M2](#)

[Medicines and Healthcare Products Regulatory Agency](#)

13 Dec 2022, Health

The complainant requested information from Medicines and Healthcare products Regulatory Agency (MHRA) in relation to thermal cameras and temperature screening products. By the date of this notice MHRA had not issued a substantive response to this request. The Commissioner requires MHRA to provide a substantive response to the request in accordance with its obligations under FOIA.

FOI 10: Complaint upheld

[Decision notice IC-201536-P7W5](#)

[Medicines and Healthcare Products Regulatory Agency](#)

13 Dec 2022, Health

The Commissioner's decision is that MHRA is entitled to withhold information associated with its Yellow Card Scheme under sections 40(2) and 41(1) of FOIA which concern personal data and information provided in confidence respectively. MHRA's response to the request did not comply with section 10(1) or 17(1) of FOIA, which concern timeliness. The Commissioner does not require MHRA to take any steps.

FOI 17: Complaint upheld FOI 10: Complaint upheld FOI 40: Complaint not

upheld FOI 41: Complaint not upheld

[Decision notice IC-193020-D8Y0](#)

[Salisbury NHS Foundation Trust](#)

13 Dec 2022, Health

The complainant has requested information about the Trust's Emergency Preparedness, Resilience and Response plans and arrangements. The Trust refused to confirm or deny holding the information but failed to specify under which exemption(s). The Commissioner's decision is that the Trust is not entitled to refuse to confirm or deny holding the information and has therefore breached section 1(1)(a) of FOIA. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation: Confirm or deny whether the Trust holds the

requested information in accordance with section 1(1) of FOIA. If it holds the information, the Trust should either disclose it to the complainant or issue a refusal notice in accordance with section 17 of FOIA.

FOI 1: Complaint upheld

[Decision notice IC-181091-Z4F1](#)

[UK Health Security Agency](#)

9 Dec 2022, Health

The complainant has requested details of the services provided by UKHSA to Pfizer relating to a number of listed service fees. UKHSA refused the request under section 41 of FOIA. The Commissioner's decision is that the UKHSA has failed to demonstrate the exemption is engaged. The Commissioner requires UKHSA to provide descriptions of the services provided by UKHSA to Pfizer for each of the listed fees.

FOI 41: Complaint upheld

[Decision notice IC-189450-H5B8](#)

[UK Health Security Agency](#)

9 Dec 2022, Health

The complainant has requested information relating to COVID-19. The UKHSA refused to provide the requested information, citing section 24(1) (national security) of FOIA. The Commissioner's decision is that the withheld information engages section 24(1) and the public interest favours maintaining the exemption. The UKHSA breached section 10 (time for compliance with request) in failing to provide its refusal notice within twenty working days of receipt of the request. The Commissioner does not require the public authority to take any steps.

FOI 24: Complaint not upheld FOI 10: Complaint upheld

[Decision notice IC-168787-R6L2](#)

[Medicines and Healthcare Products Regulatory Agency](#)

8 Dec 2022, Health

The complainant has requested information about adverse reactions to the coronavirus vaccination. The Medicines & Healthcare Products Regulatory Agency ('MHRA') refused to comply with the request, citing section 14(1) (vexatious requests) of FOIA. The Commissioner's decision is that the MHRA has correctly relied upon section 14(1) to refuse the request. The Commissioner requires no steps to be taken.

FOI 14: Complaint not upheld

[Decision notice IC-161318-Z2S0](#)

[Medicines and Healthcare Products Regulatory Agency](#)

8 Dec 2022, Health

The complainant has requested information about adverse reactions to the coronavirus vaccination. The Medicines & Healthcare Products Regulatory Agency

(‘MHRA’) refused to comply with the request, citing section 14(1) (vexatious requests) of FOIA. The Commissioner’s decision is that the MHRA has incorrectly relied upon section 14(1) to refuse the request. The Commissioner requires the public authority to issue a fresh response to the request not relying upon section 14(1) FOIA.

FOI 14: Complaint upheld

[Decision notice IC-157794-S5Z2](#)

[Liverpool University Hospitals NHS Foundation Trust](#)

8 Dec 2022, Health

The complainant made a request on 7 July 2022 for the details of 49 specified contracts identified on a spreadsheet provided in response to an earlier FOIA request. The Trust refused to comply with the request under section 12 FOIA as it said it would exceed the cost limit to do so. The Commissioner’s decision is that section 12 FOIA was incorrectly applied to the request. The Commissioner requires the public authority to provide a fresh response under the FOIA to the request dated 7 July 2022 not relying upon section 12 FOIA.

FOI 12: Complaint upheld

[Decision notice IC-197247-G1W7](#)

[North Bristol NHS Trust](#)

7 Dec 2022, Health

The complainant has requested information about same-sex wards. The above public authority provided some information, but the complainant believes more is held. The Commissioner’s decision is that, on the balance of probabilities, the public authority has disclosed all the relevant information it holds. However, the public authority breached section 10 of FOIA as it failed to respond to the request within 20 working days. The Commissioner does not require further steps. Keywords: creating information, accuracy of information, adequacy of information

FOI 10: Complaint upheld FOI 1: Complaint not upheld

[Decision notice IC-198085-G7H6](#)

[Belfast Health and Social Care Trust](#)

6 Dec 2022, Health

The complainant requested information from Belfast Health and Social Care Trust (“the Trust) about projects they organise for the Irish traveller community and how many travellers have attended those projects since 2019. The Trust provided information about the projects it commissioned under contract but explained that it did not hold the requested information about the numbers in attendance. The Commissioner’s decision is that, on the balance of probabilities, the Trust does not hold the requested information about attendance numbers. The Commissioner does not require the Trust to take any steps as a result of this decision notice.

FOI 1: Complaint not upheld

[Decision notice IC-184390-H5F8](#)

[NHS England](#)

5 Dec 2022, Health

The complainant has requested financial information about the provision of additional healthcare capacity by two private hospitals. Some information within scope of the request has now been published. NHS England has disclosed other information and is withholding the remainder under sections 31, 41 and 43 of FOIA. These concern law enforcement, information provided in confidence and commercial interests respectively. The Commissioner's decision is as follows: NHS England is entitled to withhold entire copies of the actual invoices it holds under section 31(1) of FOIA and the public interest favours maintaining the exemption in that respect. However it would be possible to disclose a little of the information in each of the invoices – as presented in each invoice - without the risk of potential fraud occurring. Section 31(1) is not engaged in respect of that specific information. NHS England is entitled to withhold the validation reports under section 43(2) and the public interest favours maintaining this exemption. NHS England breached section 10(1) and section 17(1) as it did not communicate the information it held to the complainant, or issue a refusal notice in respect of exempt information, within the required timescale of 20 working days following the date of receipt of the request. The Commissioner requires NHS England to take the following step to ensure compliance with the legislation: Disclose the 'Line 1' information in the requested invoices as this information is presented in those invoices, and as discussed in paragraphs 17-21 of this notice. FOI 17: Complaint upheld FOI 31: Complaint partly upheld FOI 10: Complaint upheld FOI 43: Complaint not upheld

[Decision notice IC-146236-R0F1](#)

[NHS England](#)

2 Dec 2022, Health

The complainant has requested information relating to the proposed formation of a wholly-owned subsidiary company by South Warwickshire Foundation Trust. NHS England (NHSE) provided some redacted information but withheld the documents making up the business case on the basis of section 41 of the FOIA. The Commissioner's decision is that NHSE has correctly applied the exemption and the public interest lies in withholding the information.

FOI 41: Complaint not upheld

[Decision notice IC-158722-H9W1](#)

[Black Country Healthcare NHS Foundation Trust](#)

1 Dec 2022, Health

The complainant has requested all correspondence between the Spectrum 10K research project and Black Country Healthcare NHS Foundation Trust (the Trust). The Trust applied section 12 FOIA as it said it would exceed the cost limit to comply with the request. The Commissioner's decision is that section 12 FOIA was correctly applied to the request. The Trust however breached section 16 FOIA in the handling

of this request. The Trust also breached section 10 FOIA in the handling of this request as it did not respond within the statutory time for compliance. The Commissioner requires the public authority to provide the complainant with advice and assistance as to how the request maybe refined or confirm that this would not be possible in accordance with its obligations under section 16 FOIA.

FOI 10: Complaint upheld FOI 16: Complaint upheld FOI 12: Complaint not upheld
[Decision notice IC-188919-H2P6](#)

[London Ambulance Service NHS Trust](#)

29 Nov 2022, Health

The complainant has requested London Ambulance Service NHS Trust (the trust) to disclose information relating to its decision to restrict his contact with the trust. The trust disclosed the recorded information it holds falling within the scope of the complainant's request. The Commissioner's decision is that on the balance of probabilities the trust does not hold any further recorded information to that already provided. He has however found the trust in breach of section 10 of FOIA. The Commissioner does not require any further action to be taken.

FOI 1: Complaint not upheld

[Decision notice IC-158605-W1P3](#)

[Salisbury NHS Foundation Trust](#)

29 Nov 2022, Health

The complainant has requested Salisbury NHS Foundation Trust ('the Trust') to disclose information relating to its Emergency Preparedness, Resilience and Response (EPRR) plans and arrangements. The Trust refused to confirm or deny holding the information but failed to specify under which exemption(s). The Commissioner's decision is that the Trust is not entitled to refuse to confirm or deny holding the information and has therefore breached section 1 of FOIA. The Commissioner requires the Trust to confirm or deny whether it holds the requested information in accordance with section 1 of FOIA. If the Trust holds the information, it should either disclose that to the complainant or issue a refusal notice in accordance with section 17 of FOIA.

FOI 1: Complaint upheld

[Decision notice IC-191315-R5V3 \(1\)](#)

[Mid & South Essex Integrated Care Board](#)

29 Nov 2022, Health

The complainant has requested information from Mid Essex Clinical Commissioning Group (the CCG), which is now Mid & South Essex Integrated Care Board, about patient choice in mental health secondary care providers. The CCG stated that it does not hold information within the scope of the request. The Commissioner's decision is that, on the balance of probabilities, the CCG is correct when it says that it does not hold the requested information. However, the CCG breached section 10(1) of FOIA as it failed to provide a response to the complainant within the

statutory time limit. The Commissioner does not require the public authority to take any steps as a result of this decision notice.

FOI 1: Complaint not upheld FOI 10(1): Complaint upheld

[Decision notice IC-161397-H5F4](#)

[Manchester University NHS Foundation Trust](#)

25 Nov 2022, Health

The complainant has requested information relating to the sale of a decommissioned hospital site. The Trust withheld information under section 43(2) (commercial interests) of FOIA. It also confirmed that it held no further information relevant to the request. The Commissioner's decision is as follows: The Trust should have handled the request under the Environmental Information Regulations ('the EIR') and therefore breached regulation 14(3) as it incorrectly issued its refusal under FOIA and not the EIR. The withheld information engages regulation 12(5)(e) (commercial or industrial information) and the public interest favours maintaining the exception. On the balance of probabilities, the Trust holds no further information relevant to the request. The Commissioner does not require the public authority to take any steps.

EIR 14(3): Complaint not upheld EIR 12(5)(e): Complaint upheld

[Decision notice IC-186762-Z9C3](#)

[Bedfordshire, Luton and Milton Keynes NHS Integrated Care Board](#)

24 Nov 2022, Health

The complainant has requested numerical ratings for Bedfordshire Hospitals NHS Foundation Trust and Milton Keynes University Hospital NHS Foundation Trust at the stage it is held by NHS Bedfordshire, Luton and Milton Keynes Integrated Care Board (the ICB) Board. The ICB refused to provide the requested information as it said it was still in discussions with NHS England before taking the core standards to the ICB Board. The Commissioner considers that as at the time of the request, as the required information had not been taken to the ICB Board it wasn't yet at the stage of being held by the ICB Board. Whilst it would therefore appear that numerical ratings are held by the ICB and under discussion with NHS England, they have not yet been provided to the ICB Board. On this basis the information the complainant requires was not held by the ICB at the time of the request under section 1(1)(a) FOIA. The Commissioner requires no steps to be taken.

FOI 1: Complaint not upheld

[Decision notice IC-196386-V1X3](#)

[Liverpool University Hospitals NHS Foundation Trust](#)

22 Nov 2022, Health

The complainant has requested papers considered at three meetings of the New Hospital Committee. The above public authority disclosed some information but eventually relied on regulations 12(5)(b) – course of justice - 12(5)(e) – commercial confidentiality – and 13 of the EIR – personal data – in order to withhold the information. The Commissioner's decision is that the public authority has correctly

relied on all three exceptions to withhold information. As the public authority failed to deal with the request, under EIR, within 20 working days, it breached regulation 14 of the EIR. The Commissioner does not require further steps.

EIR 12(5)(b): Complaint not upheld EIR 13: Complaint not upheld EIR 14: Complaint upheld EIR 12(5)(e): Complaint not upheld

[Decision notice IC-179002-B0B0](#)

[Chelsea and Westminster NHS Foundation Trust](#)

21 Nov 2022, Health

The complainant requested information from Chelsea and Westminster Hospital NHS Foundation Trust (the Trust) relating to the number of patients that have died, having tested positive for Covid-19, with a Do Not Resuscitate (DNR)/Do Not Attempt CPR (DNACPR) order on their record. The Trust refused to comply with some of the request, citing section 12 (cost limit) of FOIA. The Commissioner's decision is that the Trust is entitled to rely on section 12(1) of the FOIA to refuse some of the complainant's request. The Commissioner does not consider that it would be possible to refine the request meaningfully in order to bring the cost of compliance within the cost limit and is therefore satisfied that the Trust has not breached section 16(1) (duty to provide advice and assistance). However, he has recorded procedural breaches of section 1(1) (general right of access), section 10(1) (time for compliance), and section 17(1) (provision of a valid refusal notice) of FOIA. The Commissioner does not require the Trust to take any steps as a result of this decision notice.

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

[Decision notice IC-176616-V6H1](#)

[Hampshire and Isle of Wight Integrated Care System](#)

21 Nov 2022, Health

The complainant's request was made to Hampshire, Southampton and Isle of Wight CCG. The CCG is now part of Hampshire and Isle of Wight Integrated Care System (the public authority). The complainant requested all relevant documentation, evidence and factual information used by the public authority in correspondence with them over a complaint they made about the care they received from South Coast Fatigue (SCF). The public authority went through the complainant's multi part request and provided its response under FOIA to each. The complainant is not happy with the information provided and does not consider the public authority has fully complied with its obligations under FOIA. The Commissioner's decision is that on the balance of probabilities the public authority has provided all the recorded information it holds and has therefore now met its obligations under FOIA. It is noted that the public authority provided additional information to the complainant during the Commissioner's investigation. As this is information which should have been provided within 20 working days of the request, the Commissioner has recorded a

breach of section 1 and 10 of FOIA. The Commissioner does not require any further action to be taken.

FOI 10: Complaint upheld FOI 1: Complaint not upheld

[Decision notice IC-167243-S6L2](#)

[Bristol, North Somerset and South Gloucestershire Integrated Care...](#)

18 Nov 2022, Health

The complainant has requested the amount Charlotte Keel Medical Practice was paid per-patient in 2020 for carrying out their contracted services. The Integrated Care Board (ICB) refused the request under section 43(2) of the FOIA. The Commissioner's decision is that the ICB has correctly applied the exemption and the public interest lies in withholding the information.

FOI 43: Complaint not upheld

[Decision notice IC-150881-C9J3](#)

[Medicines and Healthcare Products Regulatory Agency](#)

18 Nov 2022, Health

The complainant has requested all the data the MHRA relied on to approve the Pfizer, AstraZeneca and Moderna COVID-19 vaccines. The MHRA refused to comply with the request under section 14(1) of the FOIA. The Commissioner's decision is that the MHRA has correctly applied the exemption and refused the request on the basis of section 14(1) of the FOIA.

FOI 14: Complaint not upheld

[Decision notice IC-167627-X2Z0](#)

[General Medical Council](#)

18 Nov 2022, Health

The complainant made three requests for information regarding the professional qualifications of individuals who investigate and respond to complaints made to the GMC about doctors. The GMC refused to confirm or deny whether it holds information under section 40(5B)(a)(i) FOIA in relation to one request. It applied section 12 FOIA as it considers it would exceed the cost limit to comply with one request. In relation to one request it said that this request was not a valid request for recorded information under section 8 FOIA. The Commissioner considers that the GMC was correct to apply section 40(5B)(a)(i) and section 12 FOIA in this case. It was also correct that some of the requests was not valid under section 8 FOIA. The Commissioner requires no steps to be taken.

FOI 40: Complaint not upheld FOI 8: Complaint not upheld FOI 12: Complaint not upheld

[Decision notice IC-187677-X0T5](#)

[Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board](#)

17 Nov 2022, Health

The complainant requested information from Oxfordshire Clinical Commissioning Group (the CCG), which is now Buckinghamshire, Oxfordshire & Berkshire West Integrated Care Board, about the implementation of a 'Black Alert' status by a specific GP practice. The CCG provided the complainant with some information, and stated that it did not hold the rest. The complainant believes that the CCG has not responded to all of their request. The Commissioner's decision is that the CCG met its obligations under section 1 of FOIA, and therefore does not require it to take any further steps on this matter.

FOI 1: Complaint not upheld

[Decision notice IC-169107-G5W6](#)

[London Ambulance Service NHS Trust](#)

17 Nov 2022, Health

The complainant requested information about plans to develop reusable masks. By the date of this notice London Ambulance Service 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 Trust must provide a substantive response to the request in accordance with its obligations under FOIA. The Trust must take this step 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 10: Complaint upheld

[Decision notice IC-193750-J0J2](#)

[UK Health Security Agency](#)

16 Nov 2022, Health

The complainant has requested details of infants who died of pertussis in 2012. The above public authority relied on section 41 (breach of confidence) and 40(2) of FOIA (third party personal data) to withhold the information. The Commissioner's decision is that the public authority has not demonstrated that either exemption is engaged and consequently is not entitled to rely on these exemptions. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation. Disclose the requested information to the complainant. Keywords: small numbers

FOI 40: Complaint upheld FOI 41: Complaint upheld

[Decision notice IC-175124-W4W1](#)

[UK Health Security Agency](#)

14 Nov 2022, Health

The complainant has requested information relating to a COVID-19 policy. The UK Health Security Agency (UKHSA) refused to provide the requested information, citing sections 36(2)(b)(i), 36(2)(b)(ii) and 36(2)(c) (prejudice to the effective conduct of

public affairs) of FOIA. The Commissioner's decision is that section 36(2)(b)(i) and (ii) are engaged and the public interest favours maintaining the exemption. The Commissioner does not require the public authority to take any steps.

FOI 36(2)(b)(i): Complaint not upheld FOI 36(2)(b)(ii): Complaint not upheld

[Decision notice IC-142398-T7Z2](#)

[Central and North West London NHS Foundation Trust](#)

11 Nov 2022, Health

The complainant requested information from Central and North West London NHS Trust ("the Trust") about spend on chaplaincy services during 2018/19, 2019/20 and 2020/21 and the number of chaplains it currently employs. The Commissioner's decision is that, on the balance of probabilities, the Trust does not hold information within the scope of the request. The Commissioner requires no steps to be taken as a result of this decision.

FOI 1: Complaint not upheld

[Decision notice IC-152917-R3P4](#)

[UK Health Security Agency](#)

10 Nov 2022, Health

The Commissioner's decision is that under section 1(3) of FOIA the UK Health Security Agency (UKHSA) was not obliged to comply with the request because the complainant had not provided it with the further information about the request that UKHSA had asked for. UKHSA provided adequate advice and assistance to the complainant in line with section 16(1).

FOI 1: Complaint not upheld FOI 16: Complaint not upheld

[Decision notice IC-159929-C1V8](#)

[Great Ormond Street Hospital for Children NHS](#)

10 Nov 2022, Health

The complainant made a request for information regarding the employment of a doctor at GOSH. GOSH refused to confirm or deny whether it holds the requested information under section 40(5B)(a)(i) FOIA. The Commissioner considers that GOSH incorrectly applied section 40(5B)(a)(i) FOIA in this case. The Commissioner requires the public authority to confirm or deny whether it holds information within the scope of the request. If GOSH holds information it must either disclose it, or issue a refusal notice that complies with section 17 of the FOIA.

FOI 40: Complaint upheld

[Decision notice IC-168881-T1Q2](#)

[Frimley Health NHS Foundation Trust](#)

9 Nov 2022, Health

The public authority has failed to respond to this request within 20 working days, as specified under FOIA. The Commissioner requires it to provide the complainant with

a response to this request within 35 calendar days in accordance with its obligations under FOIA.

FOI 10: Complaint upheld

[Decision notice IC-194092-F7C9](#)

[Medicines and Healthcare Products Regulatory Agency](#)

9 Nov 2022, Health

The public authority has failed to respond to this request within 20 working days, as specified under FOIA. The Commissioner requires it to provide the complainant with a response to this request within 35 calendar days in accordance with its obligations under FOIA.

FOI 10(1): Complaint upheld

[Decision notice IC-194401-B8G7](#)

[The Christie NHS Foundation Trust](#)

9 Nov 2022, Health

The complainant has requested information associated with a car parking planning application. The Christie NHS Foundation Trust initially handled the request under FOIA and refused the request as vexatious under section 14(1). Its final position is that the request is manifestly unreasonable under regulation 12(4)(b) of the EIR. The Commissioner's decision is as follows: The complainant's request is manifestly unreasonable under regulation 12(4)(b) of the EIR, by virtue of being a vexatious request. The public interest favours maintaining this exception. The Commissioner does not require The Christie NHS Foundation Trust to take any corrective steps.

EIR 12(4)(b): Complaint not upheld

[Decision notice IC-154071-X6L5](#)

[North Middlesex University Hospital NHS Trust](#)

8 Nov 2022, Health

On 4 May 2022, the complainant requested information regarding discharging patients. The Trust partially responded to some of the request, confirmed it was unable to respond to one part of the request but failed to respond to some parts of the request at all. The Commissioner's decision is that the Trust has breached section 10(1) FOIA as it failed to respond to all parts of the request. However the Commissioner considers that the Trust complied with its obligations under section 1(1)(a) FOIA in relation to the part of the request it confirmed it was unable to respond to. The Commissioner requires the Trust to provide a response to the elements of part 5 of the request it has failed to address and part 6 of the request. The Trust should confirm or deny whether it holds information and if information is held, it must either disclose it, or issue a refusal notice that complies with section 17 of the FOIA.

FOI 10: Complaint upheld FOI 1: Complaint not upheld

[Decision notice IC-172036-X4V9](#)

[Belfast Health and Social Care Trust](#)

3 Nov 2022, Health

The complainant has requested, from Belfast Health and Social Care Trust (the Trust), the daily number of patients of a certain age on ventilation in a specified hospital during a specified period of time. The Commissioner's decision is that the Trust was correct to cite section 40(2) of FOIA. The Commissioner does not require the Trust to take any steps following this decision notice.

FOI 40: Complaint not upheld

[Decision notice IC-150309-C1Z1](#)

[UK Health Security Agency](#)

3 Nov 2022, Health

The complainant has requested information from the United Kingdom Health Security Agency ("UKHSA"), in relation to detailed age brackets for SARS-CoV-2 variants of concern and variants under investigation in England. UKHSA advised that it does not hold the information specified, in accordance with section 1(1)(a) of FOIA. The Commissioner's decision is that, on the balance of probabilities, UKHSA does not hold the requested information. However, he has decided that UKHSA did not comply with the requirements of section 10(1) of FOIA, as it did not respond to the request within 20 working days. The Commissioner does not require the UKHSA to take any steps as a result of this decision notice.

FOI 1(1)(a): Complaint not upheld FOI 10(1): Complaint upheld

[Decision notice IC-159204-T4M1](#)

[UK Health Security Agency](#)

3 Nov 2022, Health

The complainant requested information relating to companies that had used the 'VIP' route for gaining covid related contracts. The UK Health Security Agency ("UKHSA") disclosed the names of the 50 suppliers but could not confirm or deny whether it held information relating to the names of ministers or senior officials who referred the companies to the 'VIP' route, and in doing so, relied on section 12(2) of FOIA (cost of compliance exceeds appropriate limit). Commissioner's decision is that UKHSA has failed to demonstrate that section 12(2) is engaged. The Commissioner requires UKHSA to take the following steps to ensure compliance with the legislation: • Disclose the information about the referrers to the complainant. OR • Issue a fresh response to the request, which do not rely on section 12(2) of FOIA. 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 12: Complaint upheld

[Decision notice IC-150101-Z2Z4](#)

[Oxford Health NHS Foundation Trust](#)

3 Nov 2022, Health

The complainant has requested information regarding public participation and on legal costs. The above public authority (“the public authority”) stated that it did not hold some of the information. It withheld the remaining information relying on section 36 (prejudice to the effective conduct of public affairs), section 40(2) (personal data) and section 41 (actionable breach of confidence) to withhold information. The Commissioner’s decision is that the public authority does not hold any information within the scope of element [1]. In respect of element [2], he is satisfied that the public authority has appropriately applied sections 40(2) and 41 of FOIA. The Commissioner considers that section 36 is only engaged in respect of a small quantity of information but, where it is engaged, the public interest favours maintaining the exemption. Where the exemption is not engaged, the information does fall within the scope of the request. The public authority breached sections 10 and 17 of FOIA in responding to the request. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.

Keywords: legal claims

FOI 17: Complaint upheld FOI 10: Complaint upheld FOI 40: Complaint not upheld FOI 36: Complaint partly upheld FOI 1: Complaint partly upheld

[Decision notice IC-144898-N7S3](#)

[NHS Lincolnshire Integrated Care Board](#)

2 Nov 2022, Health

The complainant requested information from NHS Lincolnshire Integrated Care Board (“the Board”) relating to the care of an individual. By the date of this notice the Board had not issued a substantive response to this request. The Commissioner’s decision is that the Board 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 Board to provide a substantive response to the request in accordance with its obligations under FOIA.

FOI 10: Complaint upheld

[Decision notice IC-110200-L1J7](#)

[Imperial College Healthcare NHS Trust](#)

2 Nov 2022, Health

The complainant requested information from Imperial College Healthcare NHS Trust (“the Trust”) relating to job applications and ethnicity background data of applicants. 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 Trust must provide a substantive response to the request in accordance with its obligations under FOIA. The Trust must take this step 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 10: Complaint upheld

[Decision notice IC-196040-T1J2](#)

[Liverpool University Hospitals NHS Foundation Trust](#)

1 Nov 2022, Health

The complainant has requested Liverpool University Hospitals NHS Foundation Trust (the trust) to disclose detailed expenditure for the month of March. The trust disclosed some information but withheld the remainder citing sections 40 and 43 of FOIA. With regards to items 1 and 3 of the request, the Commissioner is satisfied that these are not valid requests for information in accordance with section 8 of FOIA. In respect of item 2, he is however satisfied that the trust is entitled to withhold the remaining withheld information under sections 40 and 43 of FOIA. He therefore does not require any further action to be taken.

FOI 43: Complaint not upheld FOI 40: Complaint not upheld

[Decision notice IC-183891-N3T2](#)

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

1 Nov 2022, Health

The complainant requested a copy of a “Response to the Notice to Prevent Future Deaths Report”. As of the date of this notice, Tees, Esk and Wear Valleys 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 as it failing 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. The Trust must take this step 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 10: Complaint upheld

[Decision notice IC-190079-M1Z6](#)

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

1 Nov 2022, Health

The complainant requested a copy of a letter sent by the CEO of Tees, Esk and Wear Valleys NHS Foundation Trust (the Trust) to a Coroner. As of the date of this notice, the Trust has not issued a substantive response to this request. The Commissioner’s decision is that the Trust has breached section 10(1) of FOIA by failing 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. The Trust must take this step 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 10: Complaint upheld

[Decision notice IC-190744-J2F9](#)

[Essex Partnership University NHS Foundation Trust](#)

31 Oct 2022, Health

The complainant made a request for information relating to which healthcare providers make up the East of England Adult Secure Provider Collaborative. The Commissioner's decision is as follows: On the balance of probabilities, Essex Partnership University NHS Foundation Trust ("the Trust") holds no further recorded information relevant to the complainant's request and has complied with section 1(1) of FOIA than the information they have already provided.

FOI 1(1): Complaint not upheld

[Decision notice IC-166089-G7W6](#)

[Dudley Group NHS Foundation Trust](#)

31 Oct 2022, Health

The complainant has requested documents used to support a self-assessment of vascular services sent to NHS England by Dudley Group NHS Foundation Trust ("the Trust"). The Trust provided information for the first 3 parts of the request but stated no information was held for part 4 of the request. The Commissioner's decision is that the Trust has complied with its obligations under section 1(1) of the FOIA and that, on balance, no further information is held.

FOI 1: Complaint not upheld

[Decision notice IC-135426-S0V1](#)

[Northampton General Hospital NHS Trust](#)

31 Oct 2022, Health

The complainant has requested documents used to support a self-assessment of vascular services sent to NHS England by Northampton General Hospital NHS Trust ("the Trust"). The Trust provided information for the first 3 parts of the request but stated no information was held for part 4 of the request. The Commissioner's decision is that the Trust has complied with its obligations under section 1(1) of the FOIA and that, on balance, no further information is held.

FOI 1: Complaint not upheld

[Decision notice IC-133698-Q0B0](#)

[NHS England](#)

31 Oct 2022, Health

The complainant has requested information relating to an investigation. The above public authority (the public authority) relied on section 41 of FOIA (actionable breach of confidence) in order to withhold the requested information. The Commissioner's

decision is that the public authority has correctly applied section 41 of FOIA to the withheld information. However, the public authority breached sections 10 and 17 of FOIA in responding to the request. The Commissioner does not require further steps. FOI 17: Complaint upheld FOI 10: Complaint upheld FOI 41: Complaint not upheld
[Decision notice IC-151376-P4L0](#)

[University Hospital of Derby and Burton NHS Foundation Trust](#)

31 Oct 2022, Health

The complainant made a multi-part request to the Trust regarding documents supposed to be available to support the Trust's self-assessment of vascular services. The Trust answered all parts of the request but some confusion remained over whether the Trust had answered part 4 correctly and complied with its obligations under section 1(1) of the FOIA. The Commissioner's decision is that the Trust has complied with its obligations under section 1(1) of the FOIA and that, on balance, it does not hold the requested information.

FOI 1: Complaint not upheld

[Decision notice IC-133645-V4F2](#)

[Nursing and Midwifery Council](#)

31 Oct 2022, Health

The complainant has requested information explaining why a particular nurse did not have their registration suspended. The above public authority relied on section 40(2) of FOIA to withhold the information. The Commissioner's decision is that the public authority should have relied on section 40(5B) of FOIA to refuse to confirm or deny whether any information was held and has applied this exemption himself proactively. The public authority breached section 17 of FOIA as it failed to issue a correct refusal notice within 20 working days. The Commissioner does not require further steps.

FOI 17: Complaint upheld FOI 40(5B): Complaint not upheld

[Decision notice IC-165474-F9S6](#)

[Care Quality Commission](#)

31 Oct 2022, Health

The complainant has requested the Care Quality Commission (CQC) to disclose the information it holds regarding the CQC's investigation and subsequent outcomes in respect of the protected disclosure information they supplied. The CQC refused to disclose the requested information citing section 31(1)(g) by virtue of 31(2)(c) of FOIA (law enforcement). The Commissioner's decision is that the CQC is entitled to refuse to disclose the requested information in accordance with regulation 31(1)(g), by virtue of 31(2)(c) of FOIA. The CQC however breached section 10 by failing to respond to the complainant's request within 20 working days of receipt. The Commissioner does not require any further action to be taken.

FOI 10: Complaint upheld FOI 31(1)(g): Complaint not upheld

[Decision notice IC-154399-S4K4](#)

[London Ambulance Service NHS Trust](#)

31 Oct 2022, Health

The complainant requested information concerned with a specific report that the London Ambulance Service NHS Trust (“London Ambulance Service”) published. By the date of this notice London Ambulance Service had not issued a substantive response to this request. The Commissioner’s decision is that London Ambulance Service 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 London Ambulance Service to take the following step to ensure compliance with the legislation. • London Ambulance Service must provide a substantive response to the request in accordance with its obligations under FOIA. London Ambulance Service must take this step 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 10: Complaint upheld

[Decision notice IC-193183-Z3Q6](#)

[Dorset County Hospital NHS Foundation Trust](#)

26 Oct 2022, Health

The complainant has requested information about communication systems. The above public authority provided some information, denied holding most of the information and relied on section 43 of FOIA (commercial interests) to withhold the remainder. The Commissioner’s decision is that the public authority has failed to demonstrate that section 43 of FOIA is engaged and consequently is not entitled to rely on that exemption. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation. Disclose, to the complainant, the information held within the scope of element [2] of the original request.

FOI 43: Complaint upheld

[Decision notice IC-176661-C9Z6](#)

[Medicines and Healthcare Products Regulatory Agency](#)

24 Oct 2022, Health

The complainant has requested information about adverse reactions to the coronavirus vaccination. The Medicines & Healthcare Products Regulatory Agency (‘MHRA’) refused to comply with the request, citing section 14(1) (vexatious requests) of FOIA. The Commissioner’s decision is that the request was vexatious and therefore the MHRA was entitled to rely upon section 14(1) to refuse it. The Commissioner does not require the public authority to take any further steps.

FOI 14(1): Complaint not upheld

[Decision notice IC-158671-P2H2](#)

[Sandwell and West Birmingham Hospitals NHS Trust](#)

20 Oct 2022, Health

The public authority has failed to respond to this request within 20 working days, as specified under FOIA. The Commissioner requires it to provide the complainant with a response to this request within 35 calendar days in accordance with its obligations under FOIA.

FOI 10(1): Complaint upheld

[Decision notice IC-190827-V5K9](#)

[Liverpool University Hospitals NHS Foundation Trust](#)

20 Oct 2022, Health

The complainant has requested structural surveys of a building. Liverpool University Hospitals NHS Foundation Trust relied on section 42 of FOIA (Legal Professional Privilege) to withhold the requested information. The Commissioner's decision is that the Trust should have dealt with the request under the EIR, however he also finds that regulation 12(5)(b) is engaged in respect of the withheld information and that the balance of the public interest favours maintaining the exception. As the Trust failed to rely on an EIR exception within 20 working days, it breached Regulation 14 of the EIR. The Commissioner does not require further steps.

EIR 14: Complaint upheld EIR 12(5)(b): Complaint not upheld

[Decision notice IC-147660-Q5X2](#)

[Liverpool University Hospitals NHS Foundation Trust](#)

20 Oct 2022, Health

The complainant has made a series of requests for a variety of information. Liverpool University Hospitals NHS Foundation Trust's final position was that it wished to rely on section 14 to refuse one request and to rely on regulation 12(5)(b) – course of justice – and regulation 12(5)(e) – commercial confidentiality – of the EIR in order to withhold the remaining information. The Commissioner's decision is that requests 1, 2 and 4 should have been dealt with under the EIR. However, having done so, the Trust was entitled to rely on regulation 12(5)(b) of the EIR in the manner that it has done and the balance of the public interest favours withholding the information. The Trust was also entitled to rely on regulation 12(5)(e) of the EIR to withhold some, but not all of the information it initially withheld. The Commissioner finds that request 3 was vexatious and therefore the Trust was entitled to rely on section 14(1) of FOIA and Regulation 12(4)(b) of the EIR to refuse it. Finally, for the reasons set out below, the Trust breached regulations 5(2) and 14 of the EIR as well as section 17(5) of FOIA in responding to the requests. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation – if it has not already done so at the date of this notice: Disclose to the complainant, copies of the documents it identified to the Commissioner as documents 20, 22 and 23. The Trust may make the redactions to these documents that it has suggested to the Commissioner.

FOI 17: Complaint upheld EIR 12(4)(b): Complaint not upheld EIR 12(5)(b): Complaint not upheld FOI 14: Complaint not upheld EIR 14: Complaint upheld EIR 5(2): Complaint upheld EIR 12(5)(e): Complaint partly upheld
[Decision notice IC-141289-V5N9](#)

[Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board](#)

19 Oct 2022, Health

The complainant requested Oxfordshire Clinical Commissioning Group (CCG), now Buckinghamshire, Oxfordshire & Berkshire West Integrated Care Board, to disclose information relating to GP practices and what happens if they are unable to offer appointments. The CCG provided the complainant with some information. The complainant believes the two responses they received are contradictory. The Commissioner's decision is that the CCG met its obligations under section 1 of FOIA and therefore there is no further action required. It provided a response to the issue in its internal review and this is in accordance with information the complainant obtained from another public authority. The Commissioner cannot compel the CCG to provide further clarification or explanation as this is beyond the requirements of FOIA.

FOI 1: Complaint not upheld

[Decision notice IC-168392-W6X5](#)

[Medicines and Healthcare Products Regulatory Agency](#)

18 Oct 2022, Health

The Commissioner's decision is that Medicines and Healthcare products Regulatory Agency is entitled to rely on section 14(1) of FOIA to refuse the complainant's request as the request is vexatious.

FOI 14: Complaint not upheld

[Decision notice IC-165779-Y0C7](#)

[Royal Free London NHS Foundation Trust](#)

18 Oct 2022, Health

The complainant has requested information from Royal Free Hospital NHS Foundation Trust (the Trust) in relation to naso-gastric feeding. The Trust confirmed that it did not hold information falling within the scope of the request under section 1(1)(a) FOIA. The Commissioner's decision is that the Trust does not hold any information falling within the scope of the request under section 1(1)(a) FOIA. However the Trust breached section 10(1) FOIA in the handling of this request as it failed to respond within the statutory time for compliance. The Commissioner does not require the Trust to take any remedial steps.

FOI 10: Complaint upheld FOI 1: Complaint not upheld

[Decision notice IC-161991-F9M2](#)

[UK Health Security Agency](#)

18 Oct 2022, Health

The complainant requested information from the Department of Health & Social Care (“DHSC”) relating to a round table meeting held with PCR test providers. DHSC refused to comply with the request citing section 12 (cost limit) of FOIA. Although the request was initially made to DHSC, the UK Health Security Agency (“UKHSA”) has taken over the handling of this request as the subject matter now falls within its remit. The Commissioner’s decision is that UKHSA was entitled to refuse to comply with the request in accordance with section 12(1) of FOIA. The Commissioner also finds that UKHSA complied with its obligations under section 16 to offer advice and assistance. The Commissioner does not require UKHSA to take any steps.

FOI 12: Complaint not upheld FOI 16: Complaint not upheld

[Decision notice IC-163122-K9R9](#)

[Medicines and Healthcare Products Regulatory Agency](#)

14 Oct 2022, Health

The complainant has requested information about the COVID-19 vaccines. The Medicines and Healthcare products Regulatory Agency (MHRA) directed the complainant to relevant information published on its website and also provided other more general information. MHRA’s position is that it does not hold any further relevant information. The Commissioner’s decision is as follows: On the balance of probabilities, MHRA does not hold any further information within scope of the complainant’s request and has complied with section 1(1) of FOIA. The Commissioner does not require MHRA to take any corrective steps.

FOI 1: Complaint not upheld

[Decision notice IC-148712-K6D1](#)

[Care Quality Commission](#)

12 Oct 2022, Health

The complainant has requested information about an inspection of a specialist hospital. The Care Quality Commission (CQC) applied section 31, section 40, section 41 and section 44 of FOIA to two parts of the request, which concern law enforcement, personal data, information provided in confidence and prohibitions on disclosure respectively. The CQC refused to comply with the final part of the request under section 12 of FOIA as it considered the cost of doing so would exceed the appropriate limit. The Commissioner’s decision is as follows: The complainant’s entire request engages the exemption under section 31(1)(g) of FOIA and the public interest favours maintaining the exemption. The Commissioner does not require the CQC to take any corrective steps.

FOI 31: Complaint not upheld

[Decision notice IC-143310-Q7F6](#)

[Harrogate and District NHS Foundation Trust](#)

11 Oct 2022, Health

The public authority has failed to respond to this request within 20 working days, as specified under FOIA. The Commissioner requires it to provide the complainant with

a response to this request within 35 calendar days in accordance with its obligations under FOIA.

FOI 10(1): Complaint upheld

[Decision notice IC-190820-K6X8](#)

[Royal Free London NHS Foundation Trust](#)

11 Oct 2022, Health

The complainant has requested information relating to the procedure for inserting a nasogastric feeding tube in a patient. The trust confirmed that it does not hold the requested information. The Commissioner is satisfied that on the balance of probabilities the trust does not hold the requested information. He has however recorded a breach of section 10 of FOIA as the trust failed to respond to the complainant's request within 20 working days of receipt.

FOI 10: Complaint upheld FOI 1: Complaint not upheld

[Decision notice IC-159334-R9X8](#)

[NHS England](#)

11 Oct 2022, Health

The complainant made a request to NHS England regarding how South, Central and West Commissioning Support Unit (the CSU) had dealt with an FOIA request on behalf of Brighton and Hove Clinical Commissioning Group (the CCG). NHS England confirmed that it did not hold the requested information under section 1(1)(a) FOIA and that the complainant should direct his request to the CCG. The Commissioner considers that on the balance of probabilities NHS England does not hold the requested information under section 1(1)(a) FOIA. The Commissioner requires no steps to be taken.

FOI 1: Complaint not upheld

[Decision notice IC-163278-D0R0](#)

[Chesterfield Royal Hospital NHS Foundation Trust](#)

11 Oct 2022, Health

The complainant has requested information from Chesterfield Royal Hospital NHS Trust ("the Trust") about the reporting of serious incident level 2 deaths and serious incident de-escalation report requests between 2015 and 2019. The Trust explained that as there were no such incidents or report requests during the requested timeframe, it did not hold the requested information. The Commissioner's decision is that, on the balance of probabilities, the Trust does not hold the requested information. The Commissioner does not require the Trust to take any steps as a result of this decision notice.

FOI 1: Complaint not upheld

[Decision notice IC-184734-T2V5](#)

[Medicines and Healthcare Products Regulatory Agency](#)

11 Oct 2022, Health

In a two part request, the complainant has requested information about staffing associated with COVID-19 vaccines and the use of consultancy staff. The Medicines and Healthcare products Regulatory Agency (MHRA) provided some relevant information and advised it does not hold the specific information requested. The Commissioner's decision is as follows: On the balance of probabilities, MHRA has disclosed all the information it holds that is within scope of the request and has complied with section 1(1) of FOIA. MHRA's response did not fully comply with section 10(1) as it did not confirm it does not hold some of the requested information within 20 working days. The Commissioner does not require MHRA to take any corrective steps.

FOI 10: Complaint upheld FOI 1: Complaint not upheld

[Decision notice IC-141738-B6H4](#)

[Sussex Community NHS Foundation Trust](#)

10 Oct 2022, Health

The complainant has requested information about the 2021 flu vaccination. The final position of Sussex Community NHS Foundation Trust ('the Trust') is that it has released the relevant information it holds and does not hold any further relevant information. The Commissioner's decision is as follows: On the balance of probabilities, the Trust does not hold any further information within scope of the complainant's requests and has complied with section 1(1) of FOIA. The Commissioner does not require the Trust to take any remedial steps.

FOI 1: Complaint not upheld

[Decision notice IC-144526-G4X4](#)

[West Midlands Ambulance Service University NHS Foundation Trust](#)

6 Oct 2022, Health

The complainant has requested information from West Midlands Ambulance Service University NHS Foundation Trust (WMAS) regarding complaints against named members of staff. WMAS refused to provide the requested information by virtue of section 40(2) of FOIA – third party personal data. The Commissioner's decision is that WMAS has correctly relied on section 40(2) of FOIA to refuse to disclose the requested information. The Commissioner does not require WMAS to take any remedial steps.

FOI 40(2): Complaint not upheld

[Decision notice IC-165129-F2Q6](#)

[Cambridgeshire and Peterborough NHS Foundation Trust](#)

5 Oct 2022, Health

The complainant has requested information from Cambridgeshire and Peterborough NHS Foundation Trust ('the Trust'), information in relation to a specific disciplinary that took place. The Commissioner's decision is that the Trust has correctly withheld the requested information under section 40(2) of FOIA – personal information. The

Commissioner does not require the Trust to take any steps as a result of this decision notice.

FOI 40(2): Complaint not upheld

[Decision notice IC-175465-B2F8](#)

[Medicines and Healthcare Products Regulatory Agency](#)

5 Oct 2022, Health

The complainant has requested information relating to MHRA's intention to publish interactive drug analysis profiles (iDAPs) for the COVID-19 vaccines. In particular the complainant asked who the MHRA needs to seek permission from and whether such permission has yet been sought, and, if so, when, or, if not, when it intends to seek it. MHRA explained that the use of the term 'seek permission' in the request was incorrect, it explained that decisions of the MHRA are taken by the Secretary of State however it makes relevant bodies such as DHSC aware of when publication will take place. It also explained when publication will take place. The Commissioner's decision is that MHRA does not hold the information requested under section 1(1)(a) FOIA but breached section 10(1) FOIA as it failed to provide a response within the statutory time for compliance. The Commissioner does not require MHRA to take any remedial steps.

FOI 10: Complaint upheld FOI 1: Complaint not upheld

[Decision notice IC-173197-Y2X4](#)

[Medicines and Healthcare Products Regulatory Agency](#)

5 Oct 2022, Health

The complainant has requested information relating to the identity of individuals responsible for decision making regarding MHRA's intention to publish interactive drug analysis profiles (iDAPs) for the COVID-19 vaccines. MHRA provided the complainant with some information in response to the request. The Commissioner's decision is that on the balance of probabilities MHRA does hold further information under section 1(1)(a) FOIA in relation to part 1 of the request and breached section 10(1) FOIA as it failed to provide a response within the statutory time for compliance and failed to respond to an aspect of part 3 of the request. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:

- MHRA must either disclose the further information it holds in relation to part 1 of the request, or issue a refusal notice that complies with section 17 of the FOIA.
- In relation to part 3 of the request, in particular, "whether Ministers were involved with the decision not to publish so far", MHRA must confirm or deny whether it holds this information. If the MHRA holds information it must either disclose it, or issue a refusal notice that complies with section 17 of the FOIA

FOI 10: Complaint upheld FOI 1: Complaint upheld

[Decision notice IC-173329-V8B4](#)

[NHS Digital](#)

4 Oct 2022, Health

The complainant requested information from NHS Digital relating to a patient's NHS details and previous addresses. NHS Digital refused the request under section 14(1) of FOIA (vexatious requests). The Commissioner's decision is that the request was vexatious and therefore NHS Digital was entitled to rely upon section 14(1) of FOIA to refuse it. The Commissioner does not require any steps to be taken as a result of this decision notice.

FOI 14: Complaint not upheld

[Decision notice IC-150005-B8G3](#)

[General Medical Council](#)

3 Oct 2022, Health

The complainant made a request for information concerning medical tribunal decisions in relation to two named doctors heard in 2018. The GMC refused to confirm or deny whether the requested information was held under section 40(5B)(a)(i) FOIA. The Commissioner considers that the GMC was correct to apply section 40(5B)(a)(i) FOIA in this case. The Commissioner requires no steps to be taken.

FOI 40(5B)(a)(i): Complaint not upheld

[Decision notice IC-166215-Y0F7](#)

[West Midlands Ambulance Service NHS Trust](#)

3 Oct 2022, Health

The complainant has requested information from West Midlands Ambulance Service University NHS Foundation Trust (WMAS) regarding staff dismissals. WMAS provided some information within the scope of the request, but refused to provide the remaining information by virtue of section 40(2) of FOIA – third party personal information. The Commissioner's decision is that WMAS has correctly relied on section 40(2) of FOIA to refuse to disclose the remaining information. The Commissioner does not require WMAS to take any remedial steps.

FOI 40(2): Complaint not upheld

[Decision notice IC-165135-F4M9](#)