

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 1 June 2018

**Public Authority:** Care Quality Commission  
**Address:** Citygate  
Newcastle upon Tyne  
NE1 4PA

#### **Decision (including any steps ordered)**

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1. The complainant has requested inspectors' handwritten notes used to compile an inspection report on Orchard Lodge care home. The Care Quality Commission (CQC) withheld this information under sections 30(2) (investigations and proceedings), 31(1)(g) (law enforcement), 40(2) (third person personal data), 41(1) (information provided in confidence) and 44(1)(a) (prohibitions on disclosure) of the FOIA. During the Commissioner's investigation, CQC released some of the information, after redacting personal data under section 40(2) from part of it.
2. The Commissioner's decision is as follows:
  - CQC is correct to withhold a small amount of information from both Inspector 1's notes and the feedback summary note under section 40(2) of the FOIA.
  - CQC is correct to apply section 41(1) of the FOIA to the information it has withheld from Inspector 1's notes and to Inspector 2's notes in their entirety.
  - CQC breached section 10(1) as it did not comply with section 1(1)(b) within 20 working days with respect to information it released on 4 January 2018 (the feedback summary note) and 2 May 2018 (information contained in Inspector 1's notes).

3. The Commissioner does not require CQC to take any steps to ensure compliance with the legislation.

## **Request and response**

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4. On 20 July 2017 the complainant wrote to CQC and requested information in the following terms:

*"I wish to obtain a copy of the inspectors notes that were used to compile the latest report (6 December 2016) on the following care home.*

*Orchard Lodge - Tylden House Dorking Road, Warnham, Horsham, RH12 3RZ*

*(01403) 242278*

*Provided by: SHC Clemsfold Group Limited*

*(Latest report published on 6 December 2016"*

5. CQC responded on 16 August 2017. It confirmed it held information relating to the notes of Inspector 1. It released some of this information but withheld some of it under sections 30(2)(a), 31(1)(g)/31(2)(c), 40(2), 41(1) and 44(1)(a) of the FOIA. CQC confirmed it held further information – handwritten notes by Inspector 2 which included the Inspector's feedback summary note – but was withholding these notes because, although they were largely illegible, it considered they would contain information that would be exempt from disclosure.
6. In his request for an internal review the complainant challenged the withholding of the illegible notes (that is, the notes of Inspector 2 including the feedback summary note). He did not challenge the redactions made to the notes of Inspector 1. For this reason, CQC says that the redactions to the notes of Inspector 1 were not considered during its internal review process.
7. CQC provided a review on 27 September 2017. It confirmed that it could not release Inspector 2's notes to the complainant. It referred to the exemptions explained in its original response and emphasised that there is a legal prohibition on disclosure by virtue of section 76 of the Health and Social Care Act 2008 (HSCA). CQC said that Inspector 2's notes, while appearing to be illegible, were likely to contain information relating to individuals that reside within the care home in question. It said the notes may relate to its Inspector making observations about care records and may include notes of confidential and private

interviews that the Inspector had with individuals. At this point, CQC confirmed that it was also applying section 30(2)(b) of the FOIA to this information and discussed the related provisions under section 63(2)(f), and 76(1) of the HSCA.

8. On 4 January 2018 CQC disclosed to the complainant some of the information that it had originally withheld; namely a transcript of Inspector 2's feedback summary note, with some information withheld under section 40(2). But CQC appeared to confirm that, with regards to the remainder of Inspector 2's notes, it was relying on the same exemptions that it had referred to in its original response of 16 August 2017 with, the Commissioner notes, the addition of section 30(2)(b).

## Scope of the case

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9. The complainant contacted the Commissioner on 21 November 2017 to complain about the way his request for information had been handled.
10. As CQC has noted, in his request for an internal review the complainant appears to have challenged only the withholding of Inspector 2's notes. However, CQC has discussed its handling of Inspector 1's notes in its submission to the Commissioner – to which it applied broadly the same exemptions – and so the Commissioner has included Inspector 1's notes within the scope of her investigation.
11. The Commissioner's investigation has focussed on CQC's application of sections 30(2), 31(1)(g)/31(2)(c), 40(2), 41(1) and 44(1)(a) to the information it has withheld from Inspector 1 and Inspector 2's notes. She has also considered whether CQC complied with section 10(1) of the FOIA.

## Reasons for decision

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### Background

12. CQC has provided a background to its work and to the request. It has explained to the Commissioner that it is the independent regulator of health and adult social care in England. Its role is to make sure health and social care services provide people with safe, effective, compassionate, high quality care and it encourages care services to improve. As a key part of carrying out this role, CQC uses its powers of inspection under sections 62 and 63 of the HSCA. These powers allow persons duly authorised by CQC (its Inspectors) to enter registered care services, to have access to documents and records (including personal

and medical records) and to interview people working or receiving care at the service. These powers can be used for the purposes of exercising its 'regulatory functions'.

13. CQC's regulatory functions include registration (it has the power to refuse, suspend or cancel registration - without which services cannot lawfully provide regulated activities), assessing and enforcing compliance with regulations under the HSCA, rating the services, and publishing reports of its findings. It has a range of enforcement powers, including the power to bring prosecutions.
14. CQC's teams of Inspectors will vary in size, depending upon the size of the service it is inspecting and the types of regulated activities it carries on. For example, inspection of a large NHS Trust may involve a team of 80 inspectors, whilst a GP practice or small adult social care service may only have a single inspector, or a team of two or three.
15. In the course of an inspection, the inspectors will make notes. These are usually handwritten. These notes are not a complete, final or balanced judgement of the service or the care that a service provider provides, but are the Inspector's personal aide memoir of the inspection.
16. The inspectors will subsequently use these notes to support them in their internal discussions and deliberations, in feeding back their initial findings to the provider, and in the drafting of the inspection report. These notes will then be retained by the Lead Inspector for a period of six months following the publication of the final inspection report or, where applicable, the conclusion of any legal challenge or enforcement action arising out of the inspection.
17. In response to instructions from the Independent Inquiry into Child Sexual Abuse, CQC has explained that it is currently required to carry out an additional assessment and sign-off of all documents before destruction (even where they are unlikely to be of relevance to the inquiry). This sometimes leads to a delay in destroying these notes beyond the usual retention period.
18. In this case, the inspection was conducted on 1 and 2 November 2016 and the final report was published on 6 December 2016.
19. The service in question – Orchard Lodge, in Horsham, West Sussex - provides personal and nursing care for up to 33 people with learning and physical disabilities, including respite places. Most people using this service have complex mobility and communication needs. Orchard Lodge is made up of two purpose built bungalows and Boldings Lodge. At the time of inspection, there were 29 people living at the service, split between these three buildings.

20. In the report published on 6 December 2016, CQC rated the service as 'good' overall, with ratings of 'good' for each of the five questions it asks of each service (Is the service safe? Is the service effective? Is the service caring? Is the service responsive? Is the service well-led?)
21. At the previous inspection, in September 2015, CQC had found breaches of the regulations in relation to good governance and how the provider had responded to feedback. At the November 2016 inspection, it found that there had been a great improvement in how the service was managed and delivered. The breaches in regulation had been addressed.
22. Subsequently, CQC's next inspection of the service was brought forward (it inspected on 6 and 7 July 2017 and published its report on 27 September 2017) as it had been made aware that following the identification of risks relating to people's care, the service had been subject to a period of increased monitoring and support by commissioners. The service had been the subject of eight safeguarding investigations by the local authority and partner agencies. As a result of concerns raised, the provider was, at that time, subject to a police investigation. West Sussex Safeguarding Adults Board had also published information on its website regarding safeguarding concerns about Orchard Lodge.
23. On receipt of the complainant's request on 20 July 2017, CQC says it conducted searches and identified that it held handwritten notes made by two of its Inspectors during the inspection in question. The notes of 'Inspector 1' (Document 1) were relatively easy to read and were disclosed to the complainant although with extensive redactions under various exemptions.
24. During the Commissioner's investigation, CQC reviewed Inspector 1's notes again and identified that a small amount should not have been withheld. It released this information to the complainant on 2 May 2018.
25. The notes of 'Inspector 2' (Document 2) were, in CQC's view, illegible and were not disclosed.
26. Again, during the Commissioner's investigation CQC reviewed Inspector 2's feedback summary note (Document 3). This is a note of their meeting with Orchard Lodge's representatives following the inspection and was included in Inspector 2's notes. This meeting had been held on 2 November 2016 (in its submission CQC mistakenly says it happened on 2 November 2017). The document was handwritten by Inspector 2 and was held as a carbon copy (the original copy of the notes having been handed to the provider's representatives at the end of that meeting). CQC says it had withheld this document in its original

response and internal review response on the basis that it did not consider the document to be legible. Following its further review CQC identified that this document was decipherable and confirmed that it disclosed it to the complainant on 4 January 2018, with some personal data redacted.

27. CQC has gone on, in its submission, to discuss the exemptions it has applied to the three documents. It has provided the Commissioner with unredacted versions of this material.

DOCUMENT 1 – INSPECTOR 1’s NOTES and DOCUMENT 3 – INSPECTOR 2’s FEEDBACK SUMMARY NOTE

### **Section 40 – personal data**

28. CQC has withheld Inspector 1’s signature from each of pages 1-14 of their notes, and a service user’s name from Inspector 2’s feedback summary note.
29. Section 40(2) of the FOIA says that information is exempt information if it is the personal data of a third person and a condition under section 40(3) or 40(4) is met.
30. The Commissioner is satisfied that the signature and the name in this case can be categorised as personal data as the individuals concerned are living and could be identified from the information.
31. Section 40(3)(a) of the FOIA says that personal data of third persons is exempt from disclosure if disclosing it would contravene one of the data protection principles or would cause damage or distress and so breach section 10 of the Data Protection Act (DPA). The DPA was still in force at the time of CQC’s response.
32. With regard to the service user, the Commissioner is satisfied that this individual would have the reasonable expectation that their personal data would not be released to the world at large and that there is not sufficient public interest in it being released. The Commissioner considers it would therefore not be fair to release it and so disclosure would breach the DPA’s first data protection principle. She is satisfied that this information is exempt from disclosure under section 40(2).
33. The Commissioner has next considered Inspector 2’s signature. In its submission, CQC has told the Commissioner that it has recently considered whether to publish the names of its Inspectors on reports. This included an engagement exercise in which its Inspectors and their Trades Union raised concerns about harassment (in person and via social media) and risk to their person, especially in relation to high profile and contentious matters. CQC says it conducted an assessment

based on this feedback and decided against publishing Inspectors' names.

34. In this case, CQC says that publishing Inspector 1's signature (effectively, their name) may raise concerns about potential identity theft and fraud and would serve no obvious public interest. Again, it considers it would breach the first data protection principle.
35. The Commissioner acknowledges CQC's concerns about identity theft and fraud – in that the signature may be forged. She considers that its concerns about identified Inspectors being harassed or at risk also has some credibility. It appears that CQC does not routinely publish the names of Inspectors associated with a report and that therefore the Inspector in this case would have the reasonable expectation that their signature would not be published to the world at large. Again, the Commissioner does not consider that there is sufficient public interest in this particular information being released such that it would override Inspector 1's rights and freedoms. The Commissioner therefore finds that releasing Inspector 1's signature would not be fair and that it is also exempt from release under section 40(2) of the FOIA.

#### **Section 41 – information provided in confidence**

36. CQC says that in addition to the names and initials of people who use Orchard Lodge's service, a large proportion of the information withheld from the 18 pages of Document 1 consists of a detailed review of these service users' care records. CQC is correct when it says that pages 4-5, and some of page 13, consist of a detailed review of 'Mr A's' care records including the mental capacity assessment he had, his communication needs, routines, interests and activities. The bulk of page 6 and some of page 7 contains records of a similar review of 'Ms B's' care plan, including details of her diagnosis and disabilities. CQC notes that it had redacted two references to the age of a resident from page 7 on the basis that disclosing this would be likely to identify that service user.
37. From the bottom of page 10 to the top of page 13, information consisting of the notes of an interview with 'Ms C' have been redacted as these cover Ms C's views on the service and staff, information about her rooms and activities and a discussion on whether she felt safe in the service.
38. Page 15 of the document is a chart recording a Short Observational Framework for Inspection (SOFI) assessment. CQC has explained that SOFI is a tool that was jointly developed by CQC and the University of Bradford to allow it to capture the experiences of people who are unable to express these for themselves. Using SOFI, CQC's Inspector observed



and assessed the interactions, activities, mood and quality of engagement of four residents of the service and recorded these on the chart.

39. CQC considers the above information to be confidential personal data and most of this information to be sensitive personal data of vulnerable adults with a complex range of learning and physical disabilities. The information also includes information associated with the working patterns, training and experience of various Orchard Lodge staff members.
40. Section 41(1) of the FOIA says that information is exempt information if (a) it was obtained from any other person and (b) disclosing the information to the public (otherwise than under the Act) would constitute a breach of confidence actionable by that or any other person (ie the aggrieved party would have the right to take the authority to court as a result of the disclosure and the court action would be likely to succeed). Although section 41 is an absolute exemption and is therefore not subject to a public interest test under the FOIA, the common law duty of confidence contains an inherent public interest test.

*41(1)(a) – Was the information obtained from another person?*

41. The Commissioner is satisfied that the information CQC has redacted was obtained from other people; namely Orchard Lodge service users and its staff.

*41(1)(b) – would disclosure constitute an 'actionable' breach of confidence?*

42. When determining if disclosure would constitute a breach of confidence, a public authority will usually need to consider:
- whether the information has the quality of confidence
  - whether it was imparted in circumstances importing an obligation of confidence; and
  - whether disclosure would be an unauthorised use of the information to the detriment of the confider.

Does the information have the necessary quality of confidence?

43. Information will have the necessary quality of confidence if it is more than trivial and if it is not otherwise accessible.
44. The Commissioner is satisfied that the withheld information has the necessary quality of confidence. The information is more than trivial



because it is associated with individuals' health, wellbeing and safety and individuals' training and experience. Those individuals are very likely to attach considerable importance to this information. In addition, given the nature of the information and the circumstances of its collection, the Commissioner is satisfied that it would not be accessible to the wider public.

Was the information imparted in circumstances importing an obligation of confidence?

45. The Commissioners' guidance says that there are essentially two circumstances in which an obligation of confidence may apply:
  - The confider has attached explicit conditions to any subsequent use or disclosure of the information (for example the wording of a letter); or
  - The restrictions on use are obvious or implicit from the circumstances, for example information between a client in therapy and their counsellor.
46. The Commissioner is satisfied that the second circumstance applies here. CQC has argued that people who use and work in the services it regulates and inspects would have a reasonable expectation that the information about them that CQC obtains through observations, interviews and reviews of records would be treated confidentially.
47. In addition to this, CQC has advised that under section 76 of the HSCA it is an offence (punishable by 12 months imprisonment and a fine) to disclose 'confidential personal information'.
48. The DPA – which, as the Commissioner has noted, was in force at the time of CQC's response to the complainant – says that for information to constitute personal information it must relate to a living individual and that individual must be identifiable from it. The Commissioner is satisfied that the information redacted from Document 1 is the personal data of particular individuals, and that the majority of it is sensitive personal data. Sensitive personal data must be handled with particular care.
49. The Commissioner agrees with CQC that the information comprises enough pieces – initials, first names, details on interests, age and activities – such that it would be possible for the individuals concerned to be identified by, for example, staff, other residents of the service (or their families) and by other people who know them and know that they use or are employed by this service.

50. CQC says that any personal information it obtains on terms or in circumstances requiring it to be held in confidence must be considered to be confidential personal information. It has drawn the Commissioner's attention to its 'Code of Practice on Confidential Personal Information'. Examples of confidential personal information included in the Code include a person's medical or care records or specific pieces of information about their physical or mental health, condition or treatments. It also includes information that would identify people who have shared information in confidence with CQC such as people who use the services it regulates, 'whistleblowers' and people CQC has interviewed in private during inspections. Details of a care worker's education, training and experience also constitutes confidential personal information.
51. Section 77 of the HSCA provides a number of 'defences' to permit disclosure of confidential personal information. In this case, CQC considers that the only defence that may apply to allow the confidential information within Inspector 1's notes to be disclosed is section 77(2)(a) – *"that the disclosure was made in a form in which the individual to whom the information relates is not identified"*. CQC has explained that only a small number of residents were using the particular Orchard Lodge service at the time of the inspection – fewer than 10. It has argued that it does not consider it is possible to disclose the information in question in a form in which it could be suitably assured that the data subjects – including Orchard Lodge staff members - could not be identified from it.
52. Finally, with respect to its application of section 41, CQC says that it does not consider that a defence under section 77(2)(e) of the HSCA – *"that disclosure was made in accordance with any enactment"* would apply to permit disclosure of the disputed information under the FOIA. This is because section 44 of the FOIA allows information to be withheld where its disclosure *otherwise than under the FOIA* is prohibited.
53. The Commissioner is satisfied that the information in question was imparted in circumstances importing an obligation of confidence. The information was gathered during an inspection of Orchard Lodge by CQC Inspectors and can be categorised as confidential personal information, which is protected by section 76 of the HSCA.

Would disclosure be an unauthorised use of the information to the detriment of the confider?

54. The Commissioner's published guidance on section 41) establishes that case law now suggests that *"any invasion of privacy resulting from a disclosure of private and personal information can be viewed as a form of detriment in its own right"*.

55. The Commissioner considers that the information service users and staff members provided during the investigation into the service provided by Orchard Lodge constitutes information of a personal nature. Its release may well cause those individuals a degree of damage or distress. It is therefore not necessary for there to be any detriment to the confiders in terms of tangible loss, for this information to be protected by the law of confidence. Therefore the Commissioner has not considered this issue further.
56. As previously noted, section 41 of the FOIA is an absolute exemption and therefore not subject to the public interest test contained at section 2 of FOIA. However, the common law duty of confidence contains an inherent public interest test. This test assumes that information should be withheld unless the public interest in disclosure outweighs the public interest in maintaining the duty of confidence (and is the reverse of that normally applied under the FOIA).

### **Inherent public interest test**

#### *Public interest in maintaining the confidence*

57. The Commissioner considers that those people who use or who are employed by particular services and who provide personal and sensitive personal information about themselves to CQC during the course of an inspection should feel confident that their information will not subsequently be released to the wider world. Without this confidence, individuals would be less likely to engage with CQC which would inhibit CQC from carrying out robust and thorough investigations. There is, consequently, a strong public interest in maintaining the confidence of the individuals concerned in this case.

#### *Public interest in disclosing the information*

58. The Commissioner is aware that serious safeguarding concerns had been raised about Orchard Lodge and that at June 2017 – ie at the time of the complainant's request - these were subject to a police investigation. It had also been subject to investigations by the local authority and partner agencies and to increased monitoring and support by commissioners. CQC subsequently investigated Orchard Lodge in July 2017, November 2017 and January 2018. The Commissioner considers these activities satisfy the public interest in concerns about Orchard Lodge and that releasing individuals' personal and sensitive personal data would not advance that interest.
59. The Commissioner is of the view that there is also a public interest aspect to CQC's effectiveness as the regulator of health and adult social care services since it had rated Orchard Lodge as 'Good' in December

2016, only for it to be the subject of safeguarding concerns by June 2017. Again, the Commissioner is satisfied that releasing the withheld information in question would not advance that particular public interest.

*Balance of the public interest*

60. The Commissioner acknowledges that it is clearly in the public interest that public authorities are open and transparent about actions and decisions they take. Such openness can increase the public's trust in the bodies that serve them. In line with this, CQC has published the report to which the notes of Inspector 1's contributed. The Commissioner notes that CQC has also released some of the information contained in Inspector 1's notes comprising general evidence gathered during the inspection; notes of conversations, observations etc.
61. The Commissioner's view in this instance is that these general interests are outweighed by the compelling public interest served in service users and staff members being able to have confidence that CQC's investigators will not disclose their personal and sensitive personal data to the world at large. This information is protected by section 76 of the HSCA and, more broadly, disclosing it would undermine the confidence of all health and social care service users and employees that their personal information would be treated confidentially.
62. Having considered the information in question, CQC's submission and all the circumstances associated with this particular information, the Commissioner is satisfied that disclosing the information withheld from Inspector 1's notes would be an actionable breach of confidence and is therefore exempt information under section 41(1) of the FOIA. She agrees with CQC that the information can be categorised as confidential personal information which is protected by section 76 of the HSCA.
63. Because she has found that this information is exempt from release under section 41(1) it has not been necessary for the Commissioner to consider CQC's application of section 30(2)(a), 31(1)(g) 40(2) or 44 to this information.

DOCUMENT 2 – INSPECTOR 2's NOTES

**Section 41 – information provided in confidence**

64. CQC has confirmed that no part of these notes have been disclosed to the complainant and that it is relying on sections 30(2), 31(1)(g)/31(2)(c), 40(2), 41(1) and 44(1)(a) of the FOIA to withhold them.
65. As with Inspector 1's notes, Inspector 2's notes – 34 pages in all - are handwritten. CQC has explained that these particular notes were made

by the Inspector as their own personal aide memoir. The notes are not intended for third party use and would usually be destroyed shortly after the inspection process is completed.

66. CQC has told the Commissioner that at the time of the request, and at the time of the internal review, Inspector 2 was unavailable and could not be asked to transcribe the notes. Inspector 2 remains unavailable and, CQC says, is not obliged to undertake work for it – such as transcribing the notes – at this time.
67. CQC says that a number of its employees have all reviewed the notes and concluded that, beyond the occasional word or phrase, they could not read them. In some cases, CQC believes it can make out some words or phrases with varying degree of certainty, but that this relies on a level of interpretation and context, and it is not assured that it has correctly interpreted those words.
68. CQC concluded that the very small percentage of notes that could be read could not be extracted in a way which would allow it to consider and release any sort of coherent, meaningful or valuable information. It is also of the view that any information it could extract would be too fragmentary to form anything that could be described as “*a copy of the inspector’s notes*” and, indeed, that it could be said that CQC does not hold the information that forms the content of this set of notes.
69. However, CQC has rightly noted that while it cannot read Inspector 2’s handwriting at all well, others might be able to. The Commissioner has reviewed the notes herself. While it is true that Inspector 2’s handwriting is very difficult to read, some words and phrases can be deciphered and, given sufficient time and inclination, it might be possible for others to decipher further words and phrases and to derive a good deal of meaning from the notes. The Commissioner is therefore satisfied that CQC does hold the requested information ie Inspector 2’s notes.
70. CQC has confirmed that, notwithstanding that it is not completely clear precisely what information is held within Inspector 2’s notes, the notes are exempt from disclosure under the same exemptions as Inspector 1’s notes; that is sections 30(2)(a), 31(1)(g) 40(2), 41(1) and 44. In addition, CQC considers that Inspector 2’s notes may contain information obtained from a ‘whistleblower’ and that any such information would fall within the scope of the exemption under section 30(2)(b) of the FOIA.
71. CQC’s report on Orchard Lodge published in December 2016, which followed the 1 and 2 November 2016 inspections (which had generated Inspector 1 and Inspector 2’s notes) describe the inspection as a

'routine' inspection. CQC's website provides information on what its inspections entail<sup>1</sup>. The site explains that inspections provide it with an opportunity to talk to staff and people who use services; to observe care and to look at people's records to see how their needs are managed. The site goes on to describe that at the start of the inspection the inspector, or inspection team, will usually meet senior staff and will explain the inspection process. The inspector will then collect evidence by gathering the views of people who use the services in question, gathering information from staff, and other inspection methods such as observing care or reviewing records. At the end of the visit the inspector will hold a feedback meeting with senior staff and give a summary of what has been found, highlight any issues, identify any actions needed and so forth. At paragraphs 15 and 16 CQC has explained how the inspector's notes from these inspections are then used.

72. It may – or may not - be the case that not all the information contained in Inspector 2's notes can be deciphered. Notwithstanding this, given the circumstances in which the notes were gathered, the Commissioner has taken a pragmatic, and cautious, approach and considers that CQC is justified in applying section 41(1) to Inspector 2's notes in their entirety as this information is also information provided in confidence.
73. The Commissioner considers that, as with Inspector 1's notes, Inspector 2's notes will record such matters as Inspector 2's conversations with staff and service users, service users' activities, care and health records and staff training and experience.
74. For the same reasons as those discussed in relation to Inspector 1's notes, the Commissioner is satisfied that Inspector 2's notes were obtained from other people and that disclosing them would constitute an actionable breach of confidence. Again, since she finds that section 41(1) is engaged, the Commissioner has not needed to consider CQC's application of sections 30(2), 31(1)(g) 40(2) and 44 to this information.
75. Inspector 2's name and signature do not appear to be included in their notes and therefore, unlike in Inspector 1's notes, it was not necessary for CQC to withhold this information under section 40(2).

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<sup>1</sup> <http://www.cqc.org.uk/what-we-do/how-we-do-our-job/what-we-do-inspection>

## **Section 10 – time for compliance**

76. Under section 1(1) of the FOIA anyone who requests information from a public authority is entitled (a) to be told if the authority holds the information and (b) to have the information communicated to him or her if it is held.
77. Section 10(1) says that an authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
78. In this case, CQC had originally provided its response on 16 August 2017 but released further information to the complainant on 4 January 2018 and again on 2 May 2018. CQC therefore breached section 10(1) with respect to this particular information because it did not communicate it to the complainant within the necessary timescale.



## Right of appeal

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79. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)  
GRC & GRP Tribunals  
PO Box 9300  
LEICESTER  
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

80. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
81. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

## Signed

**Pamela Clements**  
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**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**