

Date: 12 February 2024

## Case Reference IC-277450-R4X9

### **Response to information request**

I write further to your email of 18 January 2024 in which you requested additional information in respect of your request dealt with under the reference number IC-277450-R4X9. The case was escalated to the Internal Review stage. However, on reviewing your email of 18 January, I have noted that you have accepted the withholding of the report under Section 31 and have stated: *"I understand the public interest in encouraging Lewisham and Greenwich NHS Trust, as well as other data controllers, to voluntarily submit to audits by the ICO to improve their data protection practices and therefore the public interest lays in maintaining organisations' trust and confidence that their correspondence with the ICO will be afforded an appropriate level of confidentiality, thus allowing the ICO to complete audits as robustly as possible."*

You have instead issued a new but related request which has been recorded as follows: *"In acknowledgement of your response to my original FOI Request, I would like you to disclose the assessment criteria/template used/assessment form used for Audits as this would not engage section 31 and would promote transparency and improve education around the data protection legislation and FOIA."*

I am now providing a response to the new request and apologies for any potential confusion caused by this being initially misidentified as an internal review.

### Review

I am a Group Manager in the Information Access Team, and I can confirm that I have had no prior involvement in the handling of this request. I reviewed the "internal Review Request" on receipt and concluded that it was a new request. I then liaised with colleagues in respect of the newly requested information.

I can confirm that there is ongoing work to publish this information proactively on the ICO's website. The intention is that publication will occur in the summer months. Therefore, Section 22 applies to the information being requested here.

### Section 22

- Section 22 provides an exemption for information that is intended to be published in the future.

- Information is exempt if, at the time when the public authority receives a request for it:
- the public authority holds the requested information;
- the public authority intends the information to be published at some future date, whether that date is determined or not; and o in all the circumstances it is reasonable to withhold the information until its planned publication.

It is a qualified exemption and therefore public authorities must consider whether the public interest in maintaining the exemption is greater than the public interest in disclosing the requested information. I, therefore, need to consider whether it is reasonable, in all the circumstances, to withhold information until the date of publication.

### Public Interest Test

#### Disclosure

The disclosure of this information would add to the understanding, accountability, and transparency of the audit process.

#### Withholding

The information being requested is due to be published in the summer as a set of guidance along with other similar documents.

It would be more beneficial to ensure that all the related information about audits (above and beyond the information requested here) is published by the ICO in the summer as is currently timetabled. By publishing the audit templates along with explanatory notes giving context, the public will be more informed than this one-off disclosure of any assessment criteria, templates and/or assessment forms.

### Public Interest Test Decision

In the circumstances of this case, I find that the public interest in maintaining the exemption in Section 22 subsection (1) (c) outweighs that in disclosure of the information. It is my view that it is reasonable to control the release of this information and to prepare it for publication in line with established processes and procedures, as far as is possible. It is, therefore, a sensible use of resources and in line with accepted practices, as well as being fair to all concerned, that this information is withheld. This is because I consider that it would be of greater public benefit to ensure that all the information about audits (not just the information requested here) is disclosed by ICO by the summer of 2024 at the latest. This will be in a detailed format giving more context around the external audit function. This providing greater accountability and transparency.

### **Next steps**

As this is the first response to your follow-on request, if you are dissatisfied with this response, you can ask us to review our response. Please let us know in writing if you want us to carry out a review. Please do so within 40 working days by replying to this email.

If we perform a review but you are still dissatisfied, you can complain to the ICO as regulator of the FOIA. This complaint will be handled just like a complaint made to the ICO about any other public authority. Please follow the link below to submit your complaint:

<https://ico.org.uk/make-a-complaint/>

### Information Access

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF  
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