

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 July 2025

Public Authority: Buckinghamshire, Oxfordshire and Berkshire
West Integrated Care Board

Address: Unipart House
Garsington Road
Cowley
OX4 2PG

Decision (including any steps ordered)

1. The complainant has requested information about continuing healthcare. The above public authority ("the public authority") relied on section 21 of FOIA (reasonably accessible) to withhold some of the information and section 12(1) of FOIA (costs) to refuse the remainder of the request.
2. The Commissioner's decision is that the public authority was entitled to rely on sections 21 and 12 of FOIA in the manner that it has done. The public authority breached section 17 of FOIA as its refusal notice was inadequate. The public authority failed to provide reasonable advice and assistance and therefore failed to comply with section 16 of FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Either provide the complainant with advice and assistance to help her refine her request, such that it falls within the cost limit, or explain why the request cannot be meaningfully refined.
4. The public authority must take these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 10 December 2024, the complainant wrote to the public authority and requested information in the following terms:

“Can you please confirm the following:

1. How many Checklists you received in the following years to determine eligibility for a full assessment for NHS Continuing Healthcare, with a year being from 1 January to 31 December: 2016 2017 2018 2019 2020 2021 2022 2023 2024 to 30th November
2. In respect of the number of Checklists received for each year as set out above, please confirm the number and percentage that were deemed to meet the Checklist threshold to progress to a full assessment for NHS Continuing Healthcare Funding?
3. In respect of the number of full assessments undertaken in each year as set out above, please confirm the number and percentage that were found to be eligible for NHS Continuing Healthcare Funding.
4. Please confirm the budget for each year as set out above allocated to the NHS Continuing Healthcare Funding for Buckinghamshire, Oxfordshire and Buckinghamshire West Integrated Care Board.
5. Please confirm for each year as set out above, the actual spend of the allocated budget as confirmed in 4 above.
6. Please confirm for each year as set out above, at what points in each year was 25%, 50%, 75% and 100% of the budget spent.
7. Please confirm in respect of the Checklists received for each year as set out above how many had domains increased by the ICB when reviewing it against the domains originally completed by the respective nurse/carer/medical professional etc?
8. Please confirm in respect of the Checklists received for each year as set out above how many had domains decreased by the ICB when reviewing it against the domains originally completed by the respective nurse/carer/medical professional etc?
9. Please confirm in respect of the Checklists received for each year as set out above, how many Checklists, number and percentage,

subsequently met the Checklist threshold as a result of domains being increased?

10. Please confirm in respect of the Checklists received for each year as set out above, how many Checklists subsequently failed to meet the Checklist threshold as a result of domains being decreased, i.e. how many Checklists met the Checklist threshold and were eligible for a full assessment before the domains were decreased?
 11. Please confirm in respect of the Checklists received for each year as set out above, the domains decreased most by the ICB. Please confirm this as the most frequently reduced domain first (number and percentage) down to the least frequently reduced domain (number and percentage)."
6. The public authority responded on 30 December 2024. In respect of parts 1, 2 and 3, it stated "data available from the national data set published by NHS England." It provided information in respect of parts 4, 5 and 6. In respect of parts 7, 8, 9 and 11 (which it incorrectly referenced as part 10), it stated "data not collected electronically. It did not address part 10 at all.
 7. Following an internal review the public authority wrote to the complainant on 11 March 2025. It now relied on section 21 of FOIA to withhold the information within the scope of parts 1, 2 and 3 – though it now provided an URL to where the information could be found. In respect of parts 7, 8, 9 and 11 (again, mislabelled as part 10), it now relied on section 12 of FOIA to refuse these parts.

Reasons for decision

Section 21 – reasonably accessible

8. The complainant did not address this exemption in her complaint, but the Commissioner has dealt with it for completeness as it was raised during the internal review.
9. When seeking an internal review, the complainant argued that the public authority had not explicitly relied upon section 21 (even though that was the implication of its response) and had given only a vague indication of where the information could be found. She argued that it had not considered "whether I am actually able to locate and reasonably access the requested information."

10. The Commissioner accepts that the public authority's original refusal notice was inadequate – this is addressed further below.
11. However, in its internal review, the public authority explicitly cited section 21 and provided precise URLs to where the requested information could be found.
12. Given that the complainant has corresponded with him and with the public authority by email, the Commissioner is satisfied that she has internet access. He can see no good reason to suggest that the information (now it has been properly identified) is not reasonably accessible to the complainant.
13. The Commissioner also notes that the information only has to be reasonably accessible. It does not have to be available in the format that the requester finds easiest to re-use.
14. The Commissioner is therefore satisfied that the public authority was entitled to rely on section 21 of FOIA to withhold the information within the scope of parts 1, 2 and 3.
15. However the Commissioner would recommend, as a matter of good practice that, in future, the public authority directs requesters to the precise location where the information can be found when relying on this exemption. This can reduce unnecessary internal reviews and complaints to the Commissioner.

Section 12 – cost of compliance

16. A public authority is entitled to refuse a request (or parts of a request) if the cost of identifying relevant information and then retrieving, locating or extracting it, would exceed a specific limit. For the public authority, that limit is £450 or 18 hours of staff time.
17. In its internal review, the public authority stated that this information "is not captured electronically, manually or in any other format and is therefore not available to us in a reportable format."
18. However it also stated that "to provide this information, all referrals would require a manual check which would take in excess of the appropriate time limit." It estimated that it would take approximately 10 minutes to review each referral to check whether there had been an increase or a decrease and a further ten minutes to record this in a spreadsheet.
19. The public authority noted that, in one quarter alone, it had received 383 referrals which, at an average of 20 minutes per referral, would

require 127 hours to review. Over the entire period covered by the request, that would equate to around 4000 hours.

20. The complainant argued that it was important the public authority should know how many checklists were being revised. If it did not know this figure, she argued, it was in breach of the section 46 FOIA Code of Practice on records management.

The Commissioner's view

21. The Commissioner considers that the public authority has not helped its case by the clumsy language it has used. Nevertheless, he can see that compiling all the data the complainant has requested would represent a substantial burden.
22. It is a common misconception that every piece of information stored in a database or in an electronic repository must be instantly searchable and extractable. That is not always the case. It will depend on the design and structure of the database or repository.
23. When the public authority states that information "is not captured electronically, manually **or in any other** format," what it really means is that the information is not captured in a **reportable** format. If the information were truly not captured in any other format it wouldn't be held at all and the public authority would be unable to search for it.
24. The information the public authority holds is not held in a structured form that would allow the public authority to search easily for it. Instead it is buried within larger records – meaning that the public authority must look up each individual record, search within that record for the relevant information, extract that information and compile it into the information the complainant has asked for.
25. The Commissioner is sceptical that the public authority would require 10 minutes, per record, to enter each piece of information into a spreadsheet (although he accepts that some time would be required to set up the spreadsheet in the first place). He is also sceptical that a figure of 10 minutes per record is reasonable – and there is no evidence of a sampling exercise having been carried out to confirm the robustness of that figure.
26. However, looking past those deficiencies, the Commissioner can still see that the public authority will need to review a considerable amount of records in order to extract all the information the complainant has requested.
27. The public authority has explained that in the fourth quarter of 2023/24, it received 383 referrals. Assuming that this was a typical quarter,

extrapolating that figure across the 36 quarters covered by the request gives a figure will in excess of 13,000 referrals that would require review.

28. Even if the public authority's estimate of the time per record were reduced from 20 minutes per record to just one, the cost of complying with the request will still exceed the cost limit – and by a substantial margin. In fact, in order to comply with the request without breaching the cost limit, the public authority would need to review each record and extract any relevant information in under five seconds per record – which the Commissioner does not consider feasible.
29. The complainant may well be correct that this information has value and would be of interest to the public. However, the exemption does not permit such matters to be taken into account. Either a request can be complied with without breaching the cost limit or it cannot.
30. The Commissioner is therefore satisfied that the public authority was entitled to rely on section 12 of FOIA to refuse parts 7-11 of the request.

Procedural matters

31. Section 16 requires a public authority to provide reasonable advice and assistance to those making, or wishing to make, information requests.
32. When a public authority is relying on section 12 of FOIA to refuse a request, it must provide the requester with advice and assistance to help them narrow their request so that it can be complied with without breaching the cost limit. Alternatively, it must state that no advice and assistance can be provided because the request cannot be meaningfully refined.
33. The public authority's internal review cited section 12 of FOIA as the reason for refusing parts of the request. However, no advice and assistance was provided to the complainant to help her narrow her request – nor did the public authority state that the request could not be meaningfully refined.
34. The public authority therefore breached section 16 of FOIA and must now either provide advice and assistance or explain why the request cannot be meaningfully refined.
35. Section 17 requires a public authority, relying on any exemption, to issue a refusal notice, within 20 working days of receiving a request.

That refusal notice must state any exemptions being relied upon and explain why they apply.

36. The public authority's refusal notice of 30 December 2024 did not cite either of the exemptions on which it ultimately came to rely – leaving the complainant to guess why she wasn't receiving the information she had asked for.
37. The public authority therefore breached section 17 of FOIA.

Right of appeal

38. 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)
General Regulatory Chamber
PO Box 11230
Leicester
LE1 8FQ

Tel: 0203 936 8963
Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

39. 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.
40. 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

Roger Cawthorne
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