

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 April 2025

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

Decision (including any steps ordered)

1. The complainant has requested information relating to a specific investigation. The Care Quality Commission ('CQC') refused to provide specific information, firstly two reports ('the expert reports'), citing section 30(1)(b) (investigations and proceedings) and secondly, the explanation around why an expert withdrew, citing section 40(2) (personal information), section 30(1)(b) and section 31(1)(g) (law enforcement).
2. The Commissioner's decision is as follows:
 - The reports engage section 30(1)(b) but the public interest lies in disclosure;
 - The body of the email, and some information contained within the report, cannot be withheld under section 40(2);
 - The email engages section 30(1)(b) and the public interest lies in disclosure. Because the email engages section 30(1)(b), it cannot engage section 31(1)(g).
3. The Commissioner requires the CQC to take the following steps to ensure compliance with the legislation:

- Disclose the reports and the email, except for the information that the Commissioner has identified, in a confidential annex, to the CQC only. The Commissioner has utilised a confidential annex in this instance to preserve the CQC's right to a fair appeal.
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.

Background information

5. The following request for information relates to Martha Mills,¹ who died aged 13 at Kings College Hospital. She died from sepsis and a coroner's report² found that she would have likely survived had she been moved to intensive care sooner.
6. Kings College Hospital responded³ to the coroner's report but the report was also passed on to the CQC which considered the matter in line with its regulatory obligations.
7. Martha's parents campaigned for the introduction of Martha's Rule⁴ after the death of their daughter.

Request and response

8. The Commissioner understands that, on a date prior to 9 September 2024, the complainant had a meeting with the CQC about its investigation into Kings College Hospital.
9. Then, on 9 September 2024, following this meeting, the complainant summarised their areas of interest into the investigation as follows:

"1. Access to names of the experts used by CQC and their reports

¹ [Martha's rule: Government to explore bringing in change after tragic teen death - BBC News](#)

² [Martha Mills: Prevention of future deaths report - Courts and Tribunals Judiciary](#)

³ https://www.judiciary.uk/wp-content/uploads/2022/03/2022-0063-Response-from-Kings-College-Hospital_Published.pdf

⁴ [NHS England » Martha's Rule](#)

2. How much public money has been spent on the investigation as a whole [including legal fees]
- 3. Was the case strong enough to proceed with the expert who withdrew and what were the circumstances of their withdrawal from the case.**
4. Whether CQC will make any public statement about the investigation and the standard of Martha's care.
5. Why are issues of leadership, poor interdepartmental relationships and culture not prosecutable by CQC.
6. Why CQC did not seek statements from authors of the serious incident investigation, authors of the external review, or staff working on the paediatric intensive care unit."
10. The Commissioner has highlighted parts 1 and 3 of the request deliberately.
11. The complainant was advised by the CQC that they didn't need to submit a formal request, and, as agreed in the meeting, their email of 9 September and their areas of interest above would be processed as an FOI request.
12. The CQC responded on 13 September 2024 and summarised the request as follows:
"1. Access to names of the experts used by CQC and their reports
2. How much public money has been spent on the investigation as a whole?
3. Was the case strong enough to proceed with the expert who withdrew?
4. Why are issues of leadership, poor interdepartmental relationships and culture not prosecutable by CQC?
5. Why CQC did not seek statements from authors of the serious incident investigation, authors of the external review, or staff working on the Paediatric Intensive Care Unit?"
13. Again, the Commissioner has highlighted parts 1 and 3 deliberately.
14. In response to part 1, the CQC refused to provide both the names of the experts who wrote the reports, citing section 40(2) (personal information), and the actual reports, citing section 31 (law enforcement).

15. In comparing the request of 9 September 2024 to the CQC's response of 13 September 2024, the Commissioner notes that the CQC has responded to an abridged version of part 3, missing out the question about 'what were the circumstances of their withdrawal from the case?'
16. In response to this abridged request, the CQC confirmed that it didn't hold the requested information and confirmed that it 'did not make a formal decision on whether to proceed with the case prior to the withdrawal of the expert.'
17. On 13 September, the complainant chased part 3 again:

"What reason was given by the expert who withdrew? Why did he withdraw? Are you refusing to provide us with this information?"
18. On 26 September 2024, the CQC confirmed:

"The expert gave the CQC an explanation for their withdrawal which we understood and accepted as legitimate. We have not provided this reason to you as we are concerned that doing so would risk identification of the expert when considered alongside other information that it is possible you already have, or that you may obtain at some point."
19. This refusal doesn't comply with FOIA and this is covered in the procedural matters section of this notice. The response to part 3, and **all** of part three, should have been provided under FOIA – not least because the CQC agreed to do so.
20. On 23 October 2024, the complainant requested an internal review into the way that their request had been handled. Their internal review request focussed on part 1; they confirmed that they no longer wished to receive the names of the experts used by the CQC but disputed the CQC's decision to withhold the reports.
21. The CQC provided the outcome to its internal review on 13 December 2024. It didn't address part 3, because it wasn't raised in the internal review request, but in relation to part 1 it changed its position. It withdrew its reliance on section 31(1)(g) and applied section 30(1)(b) (investigations and proceedings) instead.

Scope of the case

22. The complainant contacted the Commissioner on 14 December 2024 to complain about the way their request had been handled. They confirmed they had no concerns about parts 2, 4, 5 or 6 of the request – they were only concerned with the CQC's refusal to disclose the

information outstanding in relation to parts 1 and 3; that is the copy of the expert reports and the information about why one of the experts ('Dr B') withdrew.

23. Based on the CQC's explanation at paragraph 18 about the potential identification of Dr B, the Commissioner assumed the CQC was withholding the explanation about why Dr B withdrew under section 40(2) and so he proceeded with his investigation on that basis.
24. During this investigation, the CQC clarified that, as well as section 40(2), it was relying upon section 30(1)(b) and section 31(1)(g) to withhold this information. The CQC confirmed that the explanation around why Dr B withdrew is contained within an email, so this information will be referred to as 'the email' from now on in this notice.
25. It also clarified that, within the reports, it was withholding biographical information, relating to the experts who authored the reports, under section 40(2).
26. The complainant has confirmed to the Commissioner that they're happy for the identity of the experts to be withheld and with that comes any biographical information from which they could be identified.
27. However, the complainant asked the Commissioner to consider whether any of the information within the reports, to which the CQC applied section 40(2), would also fall within the scope of part 3 of the request and relate to the circumstances surrounding Dr B's withdrawal.
28. The Commissioner has considered the wording of part 3 of the request which asks for the 'circumstances surrounding Dr B's withdrawal.' To the Commissioner, this doesn't limit any such information to information that was created after Dr B withdrew; it can also include any information that might be relevant prior to their withdrawal.
29. Looking at the information the CQC has withheld under section 40(2), the Commissioner is satisfied there is a small amount of information within the report, that is being withheld under section 40(2) as well as section 30(1)(b), that falls within part 3 of the request. This is the only information to which the CQC has applied section 40(2) that the Commissioner will consider.
30. So, the scope of the Commissioner's investigation is as follows:
 - To consider whether the reports can be withheld under section 30(1)(b);
 - If the reports can't be withheld under section 30(1)(b), the Commissioner will have to separately consider the biographical

information referred to within paragraph 27-29 under section 40(2), as per the complainant's wishes;

- To consider whether the email can be withheld under any of the following exemptions: section 40(2), section 30(1)(b) and section 31(1)(g).
31. Before beginning his substantive analysis, the Commissioner notes that within the reports, there is information that has already been disclosed to the complainant, both as part of their complaint to the CQC, and under the subject access request ('SAR') regime.
32. The CQC has applied section 41(1) (information provided in confidence) and section 40(1) (personal data of the requestor) to this information. The Commissioner doesn't consider it proportionate to consider these exemptions any further, since the complainant is already in possession of the information. However, he touches upon this further in the 'other matters' section of this decision notice.

Reasons for decision

Part 1 of the request – the experts' reports

33. The following analysis relates to the withholding of the expert reports.
34. Section 30 of FOIA states:
- "Information held by a public authority is exempt information if it has at any time been held by the authority for the purpose of –
- (b) any investigation which is conducted by the authority and in the circumstances may lead to a decision by the authority to institute criminal proceedings which the authority has power to conduct."
35. Section 30 is a class based exemption – this means that there's no requirement for the disclosure of any requested information to prejudice any investigation. The requested information just has to fall within the description above.
36. The CQC regulates NHS services, adult social care and independent healthcare services in England. As part of its role, it investigates criminal offences carried out under the Health and Social Care Act 2008

(Regulated Activities) Regulations 2014 ('the Health and Social Care Act').⁵

37. Regulation 22⁶ of the Health and Social Care Act states that a registered person will commit an offence if they fail to comply with a requirement of regulations 12 – 14 and this results in:
 - a. "avoidable harm (whether of a physical or psychological nature) to a service user
 - b. a service user being exposed to a significant risk of such harm occurring"
38. The Commissioner understands that, in order for the CQC to be able to prosecute under regulation 22 of the Health and Social Care Act, the service user must not only have suffered significant and avoidable harm, but that this must have arisen from a failure by the registered person to take appropriate and adequate steps to identify and mitigate against the risk of such harm occurring.
39. The CQC is applying section 30(1)(b) to the reports in their entirety because the reports were intended to provide the CQC with an expert opinion, to assist it in determining:

"whether or not the evidential and public interest standards were met to enable CQC bring a prosecution against the Trust for a breach of Regulation 22 in relation to the death of Martha Mills."
40. Specifically, the expert reports were commissioned to help the CQC ascertain whether Martha died as a result of significant and avoidable harm **and** that this harm arose from the failure to take appropriate and adequate steps to identify and mitigate against the risk of such harm occurring.
41. The Commissioner is satisfied that the reports, in their entirety, engage section 30(1)(b) since they were commissioned, and held by the CQC, for the purposes of ascertaining whether it could prosecute under regulation 22 of the Health and Social Care.
42. Section 30(1)(b) is a qualified exemption, which means it's subject to the public interest test.

⁵ [The Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014](#)

⁶ [Regulation 22, The Health and Social Care Act 2008 \(Regulated Activities\) Regulations 2014](#)

Public interest test

Factors in favour of maintaining the exemption

43. Section 30 exists for two reasons: to prevent the disclosure of information that would prejudice a specific investigation or prosecution and to protect investigatory and prosecution processes more generally.
44. Section 90(2) of the Health and Social Care Act states that the CQC may only bring a prosecution within 3 years of an offence being committed. This means the CQC's statutory limitation for any offence relating to Martha's death was 30 August 2024 and had passed at the time that the request was made. The opportunity to prosecute for Martha's death has now passed, so there's no specific prosecution left to prejudice.
45. However, the Commissioner recognises that a vital element of many investigations and proceedings is the intelligence supplied by experts, and it is important to protect these sources so that they are not deterred from cooperating with public authorities.
46. The CQC has explained to the Commissioner:

"There had been difficulties engaging a suitable expert. A significant number of potential experts (20 in total) were approached but did not wish to be involved in such a high-profile case or said they could not assist."
47. The Commissioner recognises the need to protect the safe space that such experts should expect from working with the CQC, especially since whether the CQC's decision to pursue a criminal prosecution under the Health and Social Act is dependent on such opinions.
48. The CQC is concerned that disclosure of the reports in this instance would make it even harder to obtain expert witnesses for the long term in the future. The Commissioner accepts that some experts might be wary of contributing to such an investigation, for fear of scrutiny. On the other hand, the Commissioner would expect such experts to be robust enough to know what providing their opinion involves, including the potential for disclosure of their opinion during the court process and the CQC's obligations under FOIA.
49. The Commissioner is not dismissing the CQC's concerns that, if it's more difficult it is to obtain an expert witness in such investigations, this will hamper the quality of evidence it can obtain and this will impede the CQC's ability to carry out its functions.
50. The Commissioner also recognises the importance of maintaining of the independence of the judicial and prosecution processes and the preservation of the criminal court as the sole forum for determining

guilt. The CQC is concerned that disclosure would be prejudicial to not only the processes it needs to maintain as a regulator, but also the Trust it was regulating in this instance.

51. The CQC has cited the following caselaw, Public Prosecution Service for Northern Ireland v IC and John Collins, EA/2010/0109⁷ and Breeze v IC, Chief Constable of Norfolk Constabulary and CPS EA/2011/0057⁸, in support of maintaining the exemption.

Factors in favour of disclosure

52. The Commissioner acknowledges the importance of allowing offences to be effectively investigated and prosecuted. However, the public needs to have confidence in the ability of bodies such as the CQC to uphold the law and if it's not doing so effectively, there's a public interest in understanding why.
53. Considering Martha's death led to the introduction of a new national patient safety initiative, the Commissioner believes it's in the public interest to understand all of the information available to the CQC in its investigation and why no such prosecution was, or could, be pursued.
54. As part of its handling of this request, the CQC confirmed to the complainant that it had spent approximately £67,000 on this investigation. The Commissioner considers there's a public interest in scrutinising how the CQC has spent this money.
55. The Commissioner notes that Martha's death is a well-known case which has been reported in the media; this in itself doesn't increase the public interest in disclosure. However, in cases where failures have been identified, there is a public interest in disclosing any information that would add to public understanding and help paint a fuller picture of what went wrong and why.
56. It might also be that, in cases such as this, the CQC's concerns about deterring future experts are mitigated, since the circumstances of the case are so well-known, that experts will accept that scrutiny of this case specifically will be more intense.
57. The CQC is tasked with regulating healthcare providers appropriately and prosecuting those who break the law. Returning to the CQC's concerns about disclosure affecting the quality of advice it would

⁷ [Public Prosecution Service for Northern Ireland v IC & John Collins \(Freedom of Information Act 2000\) | \[2011\] UKFTT EA 2010 0109 \(GRC\) | First-tier Tribunal \(General Regulatory Chamber\) | Judgment | Law | CaseMine](#)

⁸ [Breeze V Information Commissioner – Investigations – Panopticon](#)

receive, the Commissioner notes that at the time that the request was made, concerns⁹ had been raised about the operational effectiveness of the CQC and scrutinising the quality of the decisions in this case will contribute to that public understanding.

58. Disclosure of the expert reports would not only increase the public understanding of Martha's death, but how the CQC is reaching decisions regarding prosecution. Furthermore, part of the fees referred to within paragraph 54 will have been spent on the experts in question, who will have been aware of the high profile nature of the case when they agreed to assist the CQC.

Balance of the public interest test

59. The Commissioner considers this an extremely finely balanced decision but has determined that the balance of the public interest test lies in disclosure.

60. The CQC have argued that there is a substantial amount of information in the public domain¹⁰ about Martha's death. It's concerned that:

"If the case had proceeded to prosecution, that opinion would have been subjected to cross-examination, counter-argument and other evidence from the defence. This would have led to a verdict in accordance with criminal procedures. In the circumstances, we do not agree that publication of these reports outside of court proceedings would have an overall effect of increasing public understanding as to fault and liability."

61. By virtue of the request, and the information itself, it's clear that it's an expert's opinion being requested and not a prosecution under court proceedings. The CQC should not assume the public would interpret any information disclosed in response to this request as such.
62. The Commissioner has compared the information within the reports to what is in the public domain and he considers what's in the reports contributes to the understanding of the circumstances surrounding Martha's death, the role of King's College NHS Trust, and the decision making process of the CQC, to warrant disclosure.

⁹ [Review into the operational effectiveness of the Care Quality Commission: full report - GOV.UK](#); [Health secretary dubs care regulator 'unfit for purpose'](#)

¹⁰ [Martha Mills: Prevention of future deaths report - Courts and Tribunals Judiciary](#); [Girl, 13, likely to have survived if moved to intensive care, coroner rules | Hospitals | The Guardian](#)

63. Disclosure of the reports meets the public interest in not just this case but also in patient safety more generally and specifically the preventable deaths of children.
64. FOIA isn't an alternative to the court process and the Commissioner assigns considerable weight to protecting said court processes. The CQC is concerned that disclosure of the reports would expose it and the Trust to "trial by media" in which they would be forced to respond to "evidence" that would be inadmissible in court, without the opportunity to properly challenge that evidence.
65. The Commissioner isn't undermining this concern; in fact he assigns it considerable weight. However, in this instance he considers the public interest in the reports to be twofold. First, whilst no prosecution was pursued, the reports do provide a factual account of the events that led up to Martha's death, which was avoidable. There is a public interest in understanding what happened and why, and the experts' analysis and commentary provide further context in this regard. It's also important to bear in mind that a prosecution now cannot be pursued in relation to Martha's death because the statutory limitation to do so has passed.
66. The Commissioner accepts it's only for the courts to determine if any organisation or individual was liable for Martha's death. However, there's also a public interest in understanding how the CQC's processes operated in this instance and what can be learnt from how it dealt with the investigation, the outcome of which rested heavily on the reports. This is a public interest that wouldn't be met via a criminal prosecution.
67. The CQC has also acknowledged:
- "We are finalising a report which we have already committed to that we will share with the family in week commencing 10 February 2025. This report will highlight that there were avoidable delays in CQC progressing to a criminal investigation which then limited our options for appointing an expert and gave us little room for manoeuvre when the experts we did use failed to produce reports we could use."
68. In this case, the private interests of the complainant reflect the public interest in the requested information. The CQC can't be said to be meeting the public interest in why it failed to bring about a prosecution in this instance when only sharing information with an individual privately.
69. The CQC acknowledges that the expert reports would allow:
- "public scrutiny of the robustness of the work undertaken by the experts (who were working independently under instruction from CQC), they would do little to reveal the robustness of CQC's own actions as the regulator."

70. The Commissioner disagrees. If the CQC is failing to instruct robust experts to provide their opinions, this has everything to do with its own actions as a regulator. By the CQC's own admission, the reports were designed to help the CQC to determine whether a prosecution could have been pursued in this case and so hold significance in scrutinising that decision.
71. The Commissioner isn't disregarding the CQC's concerns that obtaining an expert for this specific case was difficult. However, the complainant, and the Commissioner, has already determined that the information being withheld under section 40(2), relating to the two experts, can be withheld (bar that which he will go onto consider later on in this notice). This mitigates that risk of deterring future experts significantly.
72. Also, such experts will be aware of their contribution at the time that they agree to author such reports. Had this case gone to court, the expert reports (and probably their identities) would have been submitted as evidence and would have been manifestly made public anyway. The experts are aware of this when they agree to consult for the CQC, especially on a case such as this.
73. Furthermore, the Commissioner also notes that there is no suggestion in the withheld information that either expert withdrew from the process due to a concern that their identity or views would be made public. Nor is the Commissioner aware that either individual has specifically objected to disclosure during the CQC's handling of the request, or the Commissioner's subsequent investigation.

Part 3 of the request – why the expert withdrew

74. The following analysis relates to two pieces of information, the email and the biographical information referred to within paragraphs 27 – 29. Both pieces of information fall within the scope of part 3 of the request.
75. This analysis relates to section 40(2) of FOIA, further details of which can be found in the Commissioner's decision notice support materials:
[Decision notice support materials | ICO](#)
76. When considering section 40(2), the first step for the Commissioner is to determine whether the withheld information constitutes personal data as defined by the Data Protection Act 2018 ('DPA'). If it is not personal data then section 40 of FOIA cannot apply.

77. Part 1, Section 3(2) of the DPA18¹¹ defines personal data as:

“any information relating to an identified or identifiable living individual.”

78. Turning to the email, the recipient and sender information identifies individuals, so that is clearly personal data. It identifies CQC staff and Dr B. The complainant has confirmed they don't want to know Dr B's identity and, since the CQC staff are operating in an administrative capacity, the Commissioner won't consider this information any further.

79. What's left for the Commissioner to consider is the body of the email and the information referred to within paragraphs 27 – 29. The information all relates to Dr B – it outlines their rationale for withdrawing from the case. However, that's just half of the first criteria. In order to be personal data, information must identify an individual either directly or indirectly.

80. The CQC hasn't explained to the Commissioner exactly how they could be indirectly identified from this information but it has explained:

“CQC is unable to determine whether or not Martha's parents are likely to hold, or be able to obtain (e.g. through possible civil proceedings), Dr B's identity as the author of this earlier report. If they already know his identity as the author of that report, or obtain that information at some point in the future, then disclosure of the reason for Dr B's withdrawal would allow them to identify him.”

81. If someone already knows the identity of Dr B, disclosure of the reason for their withdrawal can't give them the identity of a doctor they already possess. It would, however, divulge new personal data about Dr B.

82. The Commissioner must also consider whether other individuals, such as employees at the CQC or the Trust, might also be aware of Dr B's role in the CQC's investigation. It might be common knowledge that Dr B, for some reason, subsequently withdrew from this role but **why** they came to do so might not be common knowledge.

83. The test here is whether the information in question relates to, and identifies, Dr B. It relates to them and whilst this information isn't biographical like the other information the CQC has applied section 40(2) to, it does relate to their professional life. It doesn't talk about Dr B's career, education or speciality and, but it does hold significance for

them in how they undertook, and the withdrew, from their role in this investigation.

84. Whilst the CQC's explanation for **how** an individual could learn something new about Dr B is lacking, the Commissioner does accept that it's possible from the disclosure of both pieces of information. So, the requested information is personal data and the Commissioner must go onto consider the balancing test.
85. The CQC has a regulatory obligation to pursue prosecutions in instances where avoidable harm has occurred. There is a legitimate interest in understanding why no prosecution was attempted in this case and Dr B's withdrawal as an expert is instrumental in contributing to that understanding and there is no less intrusive way of obtaining this information.
86. In the Commissioner's view, the balancing test should take into account whether the data subject has a reasonable expectation that their information would not be disclosed. This expectation may be influenced by a number of factors such as an individual's general expectation of privacy, whether the information relates to an employee in their professional role or to them as individuals, and the purpose which this personal information serves.
87. In the Commissioner's opinion, it's not a reasonable expectation of Dr B that the circumstances of their withdrawal be withheld, given the circumstances surrounding Martha's death and the impact their withdrawal had on the CQC's ability to pursue a prosecution. In this instance, the Commissioner has determined that the legitimate interest in this information overrides the privacy of the data subject.
88. Since disclosure would be compliant with principle (a), section 40(2) of FOIA is not engaged. This means the personal data contained in the body of the email and referred to within paragraphs 27 – 29 cannot be withheld under section 40(2).
89. Returning to the email, as well as section 40(2) it's also being withheld under section 30(1)(b) and section 31(1)(g). Since he's already looked at section 30(1)(b), the Commissioner will consider this exemption first.
90. Dr B was employed by the CQC to give their expert opinion, which, in turn, would have been used to inform the CQC's opinion on whether to pursue a prosecution. The fact that Dr B then withdrew from the case, and their rationale for doing so, is information held for the purpose of that investigation. The exemption is engaged.
91. However, once again the Commissioner has determined that the public interest lies in disclosure, for the same reasons as his analysis above. It's clear from the request that the withdrawal of the expert had a

significant impact on the CQC's decision not to proceed to prosecution. Given the public interest in Martha's death, the CQC's role in proceedings and the cost of the investigation, the Commissioner considers such disclosure warranted.

92. Lastly, the CQC has applied section 31(1)(g) to the email. For clarity, in its submission to the Commissioner the CQC didn't provide a detailed account of why it considered this exemption applied. All it said was:

"CQC relies on s31(1)(g) on the basis that disclosure of this information would be likely to prejudice CQC's ability to carry out its role as a regulator with prosecutorial powers from experts being deterred from acting as experts in future cases. As set out above, this is a very real risk to CQC's functions as it has already faced very significant difficulties in securing experts, including in Martha's case."
93. Section 31(1)(g) states that information "which is **not** exempt information by virtue of section 30 is exempt information if its disclosure under this Act would, or would be likely to, prejudice - the exercise by any public authority of its functions for any of the purposes specified in subsection (2)."
94. Not only has the CQC failed to explain to the Commissioner which function specified in subsection (2) would be prejudiced, it has erroneously applied section 30 and section 31 to the same information. As per the wording of section 31, which the Commissioner has highlighted, a public authority cannot use section 31 to withhold information which would be covered by section 30, even where the balance of the public interest (in maintaining section 30) favours disclosure.
95. Therefore, section 31(1)(g) cannot apply. Since this is the last exemption the CQC is citing in relation to the email, it must be disclosed.

Procedural matters

96. Section 17 of FOIA states that, when applying an exemption, a public authority must specify the exemption in question.
97. In response to part 3 of the request, about why the expert withdrew, the CQC failed to cite the exemptions upon which it came to rely. In doing so, it breached section 17.

Other matters

98. As per paragraphs 31 and 32, there is information within the reports that has already been disclosed to the complainant. This information has been withheld under section 40(1) and section 41(1) but, since the complainant already possesses this information, the Commissioner hasn't felt it proportionate to consider the CQC's application of these exemptions.
99. However, given the specific circumstances of this request, the Commissioner would recommend, when the CQC takes the steps outlined in this notice and for the purposes of responding to this particular request only, that it should not redact information the complainant already has. This is so the complainant can see both the information they already have and the new information being disclosed, in the same document.

Right of appeal

100. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

101. 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.

102. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Alice Gradwell
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