



# **Freedom of Information (FOI) Quarterly Report**

NHS North East Lincolnshire Clinical  
Commissioning Group (CCG)

Quarter Two 2018/19 report covering the period  
from July to September 2018.

**Freedom of Information Manager**



## INTRODUCTION

This paper provides an update on the current position of requests made to NHS North East Lincolnshire Clinical Commissioning Group (CCG) under the Freedom of Information Act 2000 (FOIA) from 1 July to 30 September 2018 and a comparison against quarter two in 2017/18.

### Volume of Requests – Timeliness of Responses

	Quarter 2 2017/18	Quarter 1 2018/19	Quarter 2 2018/19	Year to Date Comparison	
<b>Requests Received</b>	Jul – Sep 2017	Apr – Jun 2018	Jul – Sep 2018	2017/18	2018/19
<b>Total number of FOI requests received:</b>	<b>60</b>	<b>64</b>	<b>80</b>	<b>111</b>	<b>144</b>
Total Number of FOIs Processed	59	62*	78**	110	140
Requests processed within 20 working days	59	62	78	110	140
Requests processed outside 20 working days	0	0	0	0	0
Percentage processed FOIs Completed within 20 working days	100%	100%	100%	100%	100%
<b>Average time taken to process (days)</b>	<b>16</b>	<b>15</b>	<b>15</b>	<b>15</b>	<b>16</b>

\* One request closed as clarification not received, and once request processed. Please see previous report for further detail.

\*\* Clarification requested for two requests during quarter two; one request was withdrawn by the applicant as they discovered that information was available to them through other means, one request was closed as clarification was not received in the required timeframe.

Quarter two 2018/19 has seen an increase of 25% in the number of FOIA requests received on the number of requests received in quarter one 2018/19 and the average number of days to process the requests has remained the same. Against the same period in 2017/18 there has been a 33.3% increase in the number of requests received yet the average number of days to process requests has reduced from 16 to 15 days. All requests processed in quarter two have been completed within the statutory 20 working day deadline. Year to date against the previous financial year, there has been a 29.7% increase in the number of requests received and the average number of days taken to process them has increased to 16 days.

### Subject Area of Request

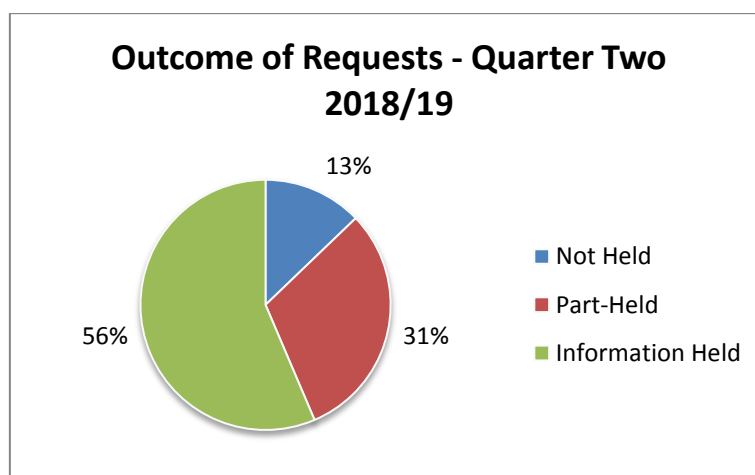
The CCG receives a variety of requests and in some cases requests with multiple questions for a variety of information types. However, one of the predominant subject areas this quarter has once again been Continuing Healthcare commissioning. In addition, Mental

Health commissioning and Individual Funding Requests (IFR) have also been popular topics for FOIA requests. Please see Appendix One for a full illustration of the various topics.

### **Outcome of Requests**

Of the 78 requests processed, 12.8% (10) sought information that was ‘not held’ by the CCG. Information was disclosed in full for 42.3% (33) of the requests. For the remaining 44.9% (35) of the requests the information was partially disclosed, either because only part of the information was held or because an exemption was applied. Exemptions were applied to 23.1% (18) of all requests processed.

The chart below displays the proportion of requests where information was held, not held or partially held by the CCG:



The following table illustrates the number of instances information was not disclosed and the reason for refusal. As shown in the table, the most commonly applied exemption was Section 21, which demonstrates the CCG is able to redirect requesters to information which is already accessible to the applicant.

<b>Exemption/Reason for Refusal</b>	<b>Number of requests applied to</b>
Section 12 - Cost of compliance	5
Section 21 - Accessible by other means	9
Section 40 - Data Protection	5
Section 43 – Commercial interests	2
<b>Total</b>	<b>21</b>

The CCG has a duty to provide advice and assistance (Section 16) to individuals making requests for information under FOIA. In instances where the CCG does not hold the information requested or when information is accessible by other means, the CCG will advise applicants as to which organisation may and/or does hold the information requested.

The table below shows which organisation(s) were highlighted as sources of information and on how many occasions during the quarter:

NHS- Acute	NHS- Mental Health	NHS Other	GPs	Local Authority	NHS Prescription Services	NHS Digital	NHSE	Other	Private
8	3	2	-	4	1	1	1	-	-

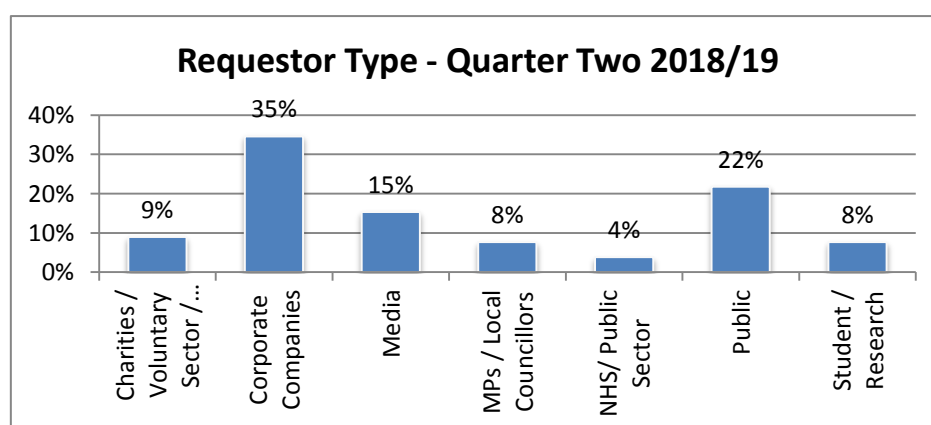
### Category of Requester

In accordance with the FOIA, the CCG maintains an ‘applicant-blind’ approach when 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. Please note, a new category, ‘students / research’, has been added for 2018/19.

As shown in table and chart below the two main types of requester are members of the public and corporate companies.

Summary of Requesters*	Quarter 2 2017/18 Jul - Sep 2017	Quarter 1 2018/19 Apr - Jun 2018	Quarter 2 2018/19 Jul – Sep 2018
Charities, Voluntary Sector / Campaign Groups	3	5	7
Corporate Companies	32	23	27
Individual members of the public	14	15	17
Media (local and national)	7	10	12
Members of Parliament / Local Councillors	0	2	6
NHS/ Public Sector Organisations	3	4	3
Student / Research	-	3	6
<b>Total</b>	<b>59</b>	<b>62</b>	<b>78</b>

\*Figures based on completed requests.



## **Missed Requests – Internal Reviews**

There were no missed requests (original request not received) and no internal reviews between 1 July and 30 September 2018.

## **Considerations**

As always the FOI Team is available to meet with the CCG if there are any problems and to provide either general or more specific training, as this has not yet been arranged further to recent offers.

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. The CCG's Corporate Records Management Standards and Procedural Guidance is tailored to the CCG, and in line with this, the Integrated Governance and Audit Committee is asked to make a decision regarding the retention of FOI records.

The CCG's Corporate Records Management Standards and Procedural Guidance incorporates recommended retention periods for records in accordance with retention requirements as laid out in the [Records Management Code of Practice for Health and Social Care](#) retention schedule. The schedule sets out the minimum periods for which various NHS records should be retained, or reviewed for continued retention. The recommendations for FOI related records are as follows:

<b>Record Type</b>	<b>Retention start</b>	<b>Retention period</b>	<b>Action at end of retention period</b>	<b>Notes</b>
<b>15. Legal, Complaints &amp; Information Rights</b>				
<i>Freedom of Information (FOI) requests and responses and any associated correspondence</i>	<i>Closure of FOI request</i>	<i>3 years</i>	<i>Review and if no longer needed destroy</i>	<i>Where redactions have been made it is important to keep a copy of the redacted disclosed documents or if not practical to keep a summary of the redactions.</i>
<i>FOI requests where there has been a subsequent appeal</i>	<i>Closure of appeal</i>	<i>6 years</i>	<i>Review and if no longer needed destroy</i>	

For ease of calculation it is suggested that the recommended minimum retention periods will be calculated from the end of the calendar year following the last entry on the document. In addition consideration should be given to compliance with the provisions of the principles of Data Protection Legislation i.e. that personal data is not kept for longer than necessary.

It is therefore recommended that the Integrated Governance and Audit Committee consider records pertaining to 2013/14, including the 2013/14 FOI register held by the FOI team for safe and secure destruction in accordance with the retention schedule. However, any records where an Internal Review has been carried out will be scheduled for review in 2020.

In addition, records pertaining to 2014/15, including the 2014/15 FOI register will be due for review and subsequent destruction from January 2019, with exception of any records that were subject to Internal Review. Therefore, it is recommended that the Integrated Governance and Audit Committee acknowledge that forthcoming review and destruction of FOI records will be carried out in line with the CCG's Records Management Standards and Procedure and be reported on in subsequent FOI reports. Going forward any subsequent decisions will be made via the IG Steering Group (chaired by the SIRO) and actions will be logged on the CCG destruction records.

### **Customer Feedback**

Whilst the FOI Team issues a survey link for the collection of feedback with every FOI response, there have been no returns from requestors during quarter two 2018/19.

### **Decision Notices - Information Commissioners Office (ICO) and News**

Appendix Two shows the ICO's health related Decision Notices for the quarter and any Decision Notices relating to Adult Social Care for the quarter. More than half of the decision notices cited in Appendix Two state that the Commissioner found authorities had breached either section 10(1) of the FOIA or regulation 5 (2) of the Environmental Information Regulations (EIR) as they did not provide a response within the specified timescale.

One decision notice highlights that although a CCG had correctly relied on Section 12, for a request about Continuing Healthcare, they had failed to provide the applicant with appropriate advice and assistance in accordance with its obligations under section 16 of FOIA. Section 12 states public authorities are not obliged to comply with requests which would exceed the appropriate cost and time limit to do so. The Commissioner therefore stipulated that the CCG took steps to provide the advice and assistance in accordance with the CCG's obligations under section 16 of the FOIA in order to ensure compliance with the legislation.

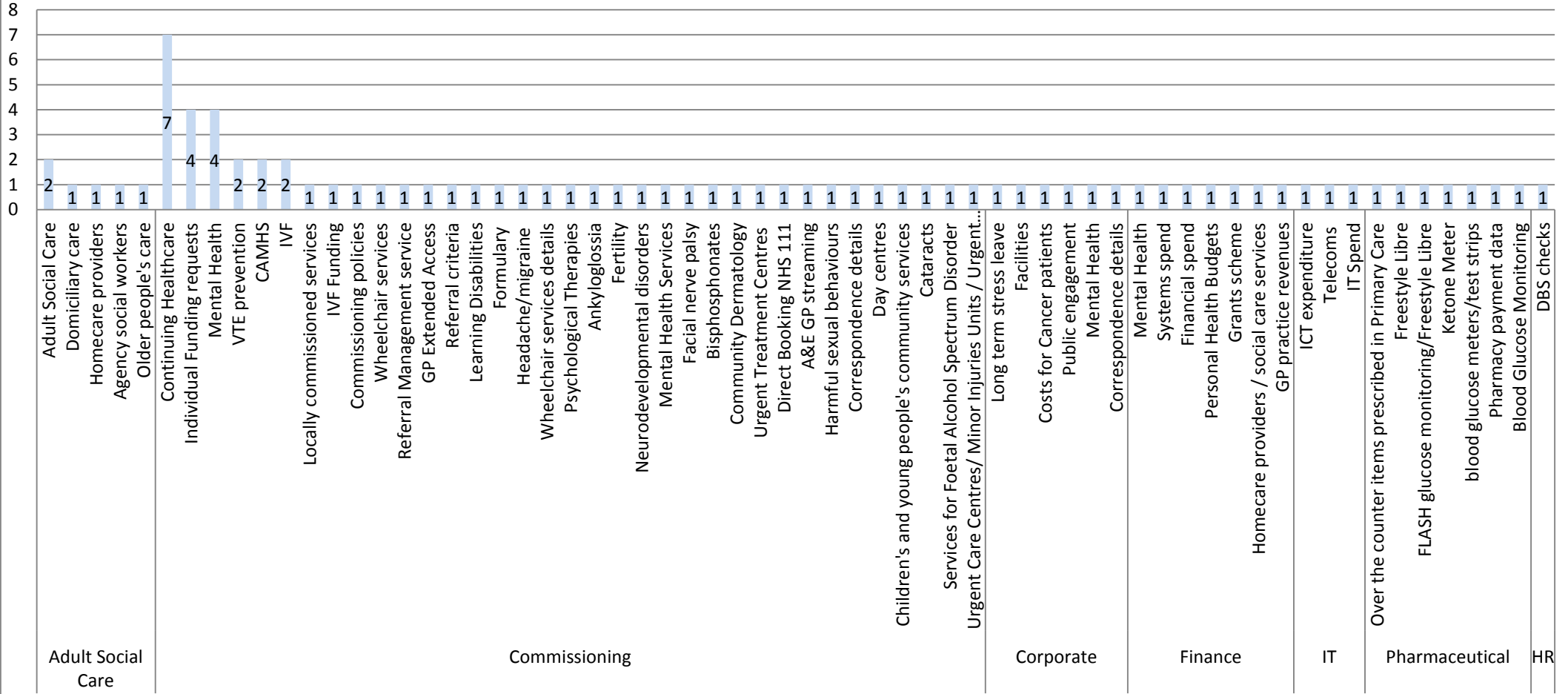
During quarter two the first ever prosecution under section 77 of the FOIA was instigated. Section 77 makes it an offence for any person to deliberately destroy, alter or conceal a record after it has been requested with the intention of preventing its disclosure. A Councillor pleaded not guilty to three charges related to FOI requests for "details about a dog DNA scheme, including getting rid of records so that they could not be disclosed". The charges alleged that the Councillor blocked, concealed or destroyed records held by the Council. The councillor was subsequently cleared of offences under FOIA.

The Scottish Information Commissioner has said FOIA laws can help restore the "much-needed trust" in public authorities. Daren Fitzhenry reminded individuals that the right to

request information from public bodies was a "powerful and valuable tool" they could make use of. The Commissioner's annual report stated that 74% of requests under FOI in 2017/18 resulted in some of the requested information being disclosed. In addition, 65% of those who appealed the decisions of their requests to the Commissioner's Office had a decision either wholly or partially in their favour. Marking International Right to Know Day (28th September), Mr Fitzhenry said: "*Whoever seeks information, on whatever subject, and for whatever reason, the FOI Act says they are entitled to receive it. FOI opens the door to meaningful participation in our democratic society. It is from that openness, and the public participation it enables, that much-needed trust in our public authorities can be rebuilt.*"

Freedom of Information Manager

### Request Category by Subject Area





## Appendix Two

### DECISION NOTICES Health Related (39 in total) 1 July – 30 September 2018

#### [NHS England](#)

20 Sep 2018, Health

The complainant has requested figures from NHS England (NHSE) about a decision associated with a Population Health Management IG Support Tool work programme. At the date of this notice, NHSE has not provided a response to the request. The Commissioner's decision is as follows: NHSE has breached section 10(1) of the FOIA as it has not provided a response to the request within 20 working days. The Commissioner requires NHSE to take the following step to ensure compliance with the legislation: Provide a response to the complainant's request that complies with the FOIA.

FOI 10: Complaint upheld

[Decision notice FS50775485](#)

#### [Barking Havering and Redbridge University Hospitals NHS Trust](#)

20 Sep 2018, Health

The complainant made an eight part request on 9 April 2017, a four part request on 19 April 2017, and an eight part request on 20 April 2017. The requests are for information relating to reports and enquiries concerning the security and availability of drugs at Queen's Hospital, Romford. Barking, Havering and Redbridge University Hospitals NHS Trust (the Trust) provided some of the requested information, but has explained that it does not hold other information falling within the scope of the requests. The Trust has also refused to provide some of the requested information under sections 12(1) and 14(1) of the FOIA. The Commissioner has considered whether the Trust is entitled to rely on sections 12(1) and 14(1) to withhold some of the requested information. The Commissioner has also consider whether the Trust has complied with its obligations under sections 1(1), 10(1), 16(1) and 17(5) of the FOIA. The Commissioner's decision is that the Trust was entitled to rely on 14(1) of the FOIA to refuse to disclose some of the requested information. She also found that the Trust was also entitled to rely on section 12(1) of the FOIA to refuse to disclose some of the requested information. The Commissioner also found that the Trust has complied with the requirements of section 16(1) of the FOIA, in that no meaningful advice could have been provided as to how to refine the information requested for parts of requests for information. However, the Commissioner found that the Trust, in failing to issue a refusal notice within the time for compliance, breached section 17(5) of the FOIA. She also found a breach of section 10(1) of the FOIA because the Trust did not respond to the requests within the statutory timescale for compliance. She also found a breach of section 1(1) in that the Trust failed to clarify whether it held some of the requested information. The Commissioner requires that the Trust provide the complainant with a response to point p) of the request dated 9 April 2017, in relation to manual copies of any email communications in accordance with its obligations under the FOIA. This decision notice is currently under appeal to the Tribunal.

FOI 10: Complaint upheld FOI 17: Complaint upheld FOI 16: Complaint not upheld FOI 14: Complaint not upheld FOI 1: Complaint upheld FOI 12: Complaint not upheld

[Decision notice FS50688960](#)

### [Cambridgeshire and Peterborough NHS Foundation Trust](#)

19 Sep 2018, Health

The complainant has requested information relating to a meeting of the Cambridgeshire and Peterborough Foundation Trust Council of Governors held on 13 September 2017. The Commissioner's decision is that Cambridgeshire & Peterborough NHS Foundation Trust (the trust) has incorrectly relied on section 12 (cost limits) to withhold the requested information. As the information is no longer held, the Commissioner is unable to order its disclosure. The Commissioner also finds that the trust has breached section 10 (1) of the FOIA as it did not provide a response within the specified timescale. As the trust has provided a response no further steps are required.

FOI 10: Complaint upheld FOI 12: Complaint upheld

[Decision notice FS50721676](#)

### [Wirral University Teaching Hospital NHS Foundation Trust](#)

17 Sep 2018, Health

The complainant has requested information relating to bullying and harassment investigations at the midwifery/women's unit at Arrowe Park Hospital since 2008. Despite the intervention of the Commissioner, Wirral University Teaching Hospital NHS Foundation Trust (the Trust) has failed to provide a response to the request in accordance with the FOIA. The Commissioner requires the Trust to provide a respond to the request in accordance with its obligations under the FOIA by either providing the requested information or issuing a valid refusal notice under section 17(1).

FOI 10: Complaint upheld

[Decision notice FS50777212](#)

### [North West Boroughs Healthcare NHS Trust](#)

17 Sep 2018, Health

The complainant has requested information from North West Boroughs Healthcare NHS Foundation Trust (the Trust) about ethnic minority service users. The Commissioner's decision is that the Trust has failed to comply with section 1(1) of the FOIA in failing to confirm or deny whether recorded information within the scope of the request was held. The Commissioner has also found that the Trust failed to comply with section 16(1) of the FOIA in failing to clarify with the requester the specific information sought. The Trust has since sought clarification from the requester and issued a fresh response. The complainant has not raised any specific issues with the Commissioner about the Trust's fresh response. The Commissioner does not require the Trust to take any steps.

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

[Decision notice FS50678496](#)

### [Public Health England](#)

17 Sep 2018, Health

The complainant has requested information associated with the role of Public Health England (PHE) in the response to the Ebola crisis in 2014-2015. PHE released a little information, indicated that it does not hold the majority of the information and said that other information is exempt from release under section 24(1) of the FOIA (national security) and 40(2)(third person personal data). The Commissioner's decision is as follows: PHE breached section 1(1)(a) with regard to requests 1.1, 1.2, 1.3, 1.4, 3, 5 and 7 because it had indicated that it held no information within the scope of

these requests. PHE breached section 1(1)(a) with regard to request 8 as it indicated that it held relevant information when it does not. PHE complied with section 1(1)(a) with regard to request 6. PHE breached section 1(1)(b) with regard to requests 1.1, 1.2, 1.4, 3, 5 and 7 as it has not communicated to the complainant all the information that it has subsequently identified that it holds that falls within the scope of these requests. On the balance of probabilities, PHE holds no further information falling within the scope of the complainant's requests. PHE breached section 10(1) with regard to requests 1.1, 1.2, 1.4, 3, 5, 6, 7, and 8 as it did not comply with section 1(1) within the required timescale. PHE breached section 17(1) with regard to requests 1.3, 2 and 7 as it did not issue the complainant with an appropriate refusal notice. PHE breached section 17(3) with regard to requests 1.3 and 2 because its refusal to disclose related information under a Part II exemption did not discuss the associated public interest arguments. The information requested in request 1.3 and request 2 is exempt from release under section 24(1) of the FOIA and the public interest favours maintaining the exemption. The Commissioner requires PHE to take the following step to ensure compliance with the legislation: Release the information that PHE holds that falls within the scope of requests 1.1, 1.2, 1.4, 3, 5 and 7 – namely: numbers, dates, results; the Access Guidelines and Application Form document; the appropriate select committee hearing information and 'Lessons Identified Oversight' document; and the Material Transfer Agreement and Ebola Governance Group Terms of Reference document (with personal data redacted as appropriate).

FOI 17: Complaint upheld FOI 10: Complaint upheld FOI 24: Complaint not upheld FOI 1: Complaint upheld

[Decision notice FS50713226](#)

#### [University Hospitals Coventry and Warwickshire NHS Trust](#)

13 Sep 2018, Health

The complainant has requested all communications to and from a named doctor between June 10th 2015 and Sept 30th 2015 relating to the death of a named individual. The Trust provided the complainant with some information but withheld the majority of the requested information under section 42 FOIA. The Commissioner's decision is that section 42 FOIA was applied correctly to the withheld information. The Commissioner requires no steps to be taken.

FOI 42: Complaint not upheld

[Decision notice FS50695861](#)

#### [Camden and Islington NHS Foundation Trust](#)

11 Sep 2018, Health

The complainant has requested information in relation to Camden and Islington NHS Foundation Trust's (the trust) patient transport policy. The trust has not to date responded to the request. The Commissioner's decision is that the trust has failed to respond to the complainant's request within 20 working days of receipt and has therefore breached section 10 of the FOIA. The Commissioner requires the trust to issue a response in accordance with the FOIA.

FOI 10: Complaint upheld

[Decision notice FS50783309](#)

#### [Camden and Islington NHS Foundation Trust](#)

11 Sep 2018, Health

The complainant has requested information from Camden and Islington NHS Foundation Trust (the trust) concerning the access to beds for female patients. The trust has not to date responded to the request. The Commissioner's decision is that the trust has failed to respond to the complainant's request within 20 working days of receipt and has therefore breached section 10 of the FOIA. The Commissioner requires the trust to issue a response in accordance with the FOIA.

FOI 10: Complaint upheld

[Decision notice FS50777450](#)

### [NHS Property Services Ltd](#)

10 Sep 2018, Health

The complainant has requested information from NHS Property Services Ltd about the land / Brownfield Site which the public authority manage on behalf of the NHS owning Trust(s), or others. The Commissioner's decision is that NHS Property Services Ltd has breached section 10 (1) of the 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 NHS Property Services Ltd to respond to the complainant's request in accordance with the FOIA.

FOI 10: Complaint upheld

[Decision notice FS50755621](#)

### [NHS Property Services Ltd](#)

10 Sep 2018, Health

The complainant has requested information from NHS Property Services Ltd in relation to land of Countess of Chester Hospital Water Tower Site, managed by NHS Property Services Ltd and unauthorised occupation of the this land by Morris Homes Ltd including if this was invoiced for by NHS Property Services Ltd to Morris Homes Ltd. The Commissioner's decision is that NHS Property Services Ltd has breached regulation 5 (2) of the EIR 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 Home Office to respond to the complainant's request in accordance with the EIR.

EIR 5(2): Complaint upheld

[Decision notice FER0746556](#)

### [South East Coast Ambulance Service Foundation Trust](#)

7 Sep 2018, Health

The complainant has requested information from South East Coast Ambulance Service (SECAS) about ambulance handovers. At the date of this notice, SECAS has not provided a response to the request. The Commissioner's decision is that: SECAS has breached section 10(1) of the FOIA as it has not complied with section 1(1) within 20 working days. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation: Provide a response to the complainant's request of 13 April 2018.

FOI 10: Complaint upheld

[Decision notice FS50770132](#)

### [NHS Business Services Authority](#)

7 Sep 2018, Health

The complainant has requested information on NHS penalty charges for prescriptions, specifically a document showing the criteria for whether a person acted wrongfully or if there was an

exceptional reason. NHS Business Services Authority (NHS BSA) disclosed its NHS Prescription & Penalty Charge Guide with some information redacted on the basis of section 31(1)(a) and 36(2)(c) of the FOIA. The Commissioner's decision is that NHS BSA has correctly applied section 31(1)(a) to withhold information from the Penalty Charge Guide and that the balance of the public interest favours maintaining the exemption. She therefore does not require NHS BSA to take any steps.

FOI 31: Complaint not upheld

[Decision notice FS50724908](#)

#### [West Hampshire Clinical Commissioning Group](#)

4 Sep 2018, Health

The complainant has requested information about Continuing Healthcare. The West Hampshire Clinical Commissioning Group (the CCG) says it is not obliged to comply with the request under section 12(1) of the FOIA, as it would exceed the appropriate cost and time limit to do so. The Commissioner's decision is that the CCG is not obliged to comply with the request under section 12(1). However, it did not provide the complainant with appropriate advice and assistance in accordance with its obligations under section 16 FOIA. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation: provide the complainant with advice and assistance in accordance with the CCG's obligations under section 16 FOIA.

FOI 12: Complaint not upheld FOI 16: Complaint upheld

[Decision notice FS50721441](#)

#### [Berkshire Healthcare NHS Foundation Trust](#)

4 Sep 2018, Health

The complainant has requested information relating to complaints made about nurses and also all their places of work within Berkshire Healthcare NHS Foundation Trust (the Trust). The Trust said that the requested information is exempt from release under section 40(2) of the FOIA as it is the personal data of the nurses named in the request. The Commissioner considers that the Trust incorrectly applied section 40(2) of the FOIA to the portion of the request concerning complaint data. The Commissioner has decided that under section 40(5)(b)(i) of the FOIA, the Trust is not obliged to confirm or deny that it holds the requested information as to do so would release the personal data of third parties. In regard to the portion of the request concerning places of work, the Trust reconsidered its position and released the information to the complainant outside of the FOIA. The Commissioner does not require any steps to be taken.

FOI 40(5) (1): Complaint not upheld FOI 40(2): Complaint not upheld

[Decision notice FS50736845](#)

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

30 Aug 2018, Health

The complainant has requested information relating to the character or play 'Peter Pan'. The Great Ormond Street Hospital (GOSH) failed to respond to this request for information and the Commissioner's decision is that in doing so GOSH breached section 10(1) of the FOIA. The Commissioner requires the public authority to provide the complainant with a response to this request in accordance with its obligations under FOIA.

FOI 10: Complaint upheld

## [Decision notice FS50762912](#)

### [NHS England](#)

30 Aug 2018, Health

The complainant has requested figures from NHS England about patient lists. At the date of this notice, NHS England has not provided a response to the request. The Commissioner's decision is as follows: NHS England has breached section 10(1) of the FOIA as it has not provided a response to the request within 20 working days. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation: Provide a response to the complainant's request of 12 April 2018.

FOI 10: Complaint upheld

### [Decision notice FS50769536](#)

### [General Pharmaceutical Council](#)

24 Aug 2018, Health

The complainant requested from the General Pharmaceutical Council (GPhC) information relating to her own property. The GPhC disclosed some information, but the complainant believed that further information was held. Whilst it was not cited by the GPhC, the Commissioner has exercised her discretion and considered the exemption provided by section 40(1) (personal data of the requester) of the FOIA. The Commissioner's conclusion is that all of the information falling within the scope of the request is the complainant's own personal data and so is exempt under section 40(1). Therefore, the GPhC was not obliged to disclose the requested information to the complainant under the FOIA. This decision notice is currently under appeal to the Tribunal.

FOI 40: Complaint not upheld

### [Decision notice FS50727261](#)

### [General Medical Council](#)

22 Aug 2018, Health

The complainant has requested from the General Medical Council ('the GMC') information concerning Warwick Medical School. The GMC's position is that it does not hold any relevant information. The Commissioner's decision is as follows: The GMC does not hold the information the complainant has requested and has complied with section 1(1) of the FOIA. The GMC breached section 10(1) as it did not comply with section 1(1) within 20 working days. The Commissioner does not require the GMC to take any steps to ensure compliance with the legislation.

FOI 1: Complaint not upheld

### [Decision notice FS50726424](#)

### [Severn Valley Medical Practice](#)

21 Aug 2018, Health

The complainant has requested information on a range of topics including how the practice handles complaints and the performance of its triage system. Although the medical practice did respond to the request, the response was outside the statutory time limit of twenty working days. The Commissioner's decision is that the medical practice has breached section 10 of the FOIA. However as the medical practice has now responded to the request the Commissioner does not require it to take any further action.

FOI 10: Complaint upheld

[Decision notice FS50755751](#)

### [Nursing and Midwifery Council](#)

21 Aug 2018, Health

The complainant requested information from the Nursing and Midwifery Council (“the NMC”) about a competence test. The test, which comprises a computer-based test (“CBT”) and an objective structured clinical examination (“OSCE”), is compulsory for applicants who have trained in nursing or midwifery outside the UK and wish to register with the NMC. The NMC disclosed some information to the complainant, but withheld information relating to the number of candidates, the pass rate and the number of complaints, broken down by test site, under section 43(2) of the FOIA – prejudicial to commercial interests – and under section 31(1)(g) of the FOIA – prejudicial to the exercise of specific law enforcement functions. The Commissioner’s decision is that neither exemption is engaged in this case and that the NMC withheld the information incorrectly. The Commissioner requires the NMC to take the following step to ensure compliance with the legislation: disclose the withheld information to the complainant.

FOI 31: Complaint upheld FOI 43: Complaint upheld

[Decision notice FS50717570](#)

### [Kettering General Hospital NHS Foundation Trust](#)

17 Aug 2018, Health

The complainant requested information relating to employment tribunals and the Trust’s use of consultants. The Commissioner’s decision is that Kettering General Hospital NHS Foundation Trust failed to respond to either request within 20 working days and has therefore breached Section 10 of the FOIA. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation: issue a substantive response, under the FOIA, to both requests.

FOI 10: Complaint upheld

[Decision notice FS50766494](#)

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

16 Aug 2018, Health

The complainant requested various information from Great Ormond Street Hospital for Children NHS Foundation Trust (GOSH), including information relating to end of life care and best interest court cases. The Commissioner’s decision is that GOSH has breached section 10(1) of the 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 GOSH to issue a substantive response to the request in accordance with its obligations under the FOIA.

FOI 10: Complaint upheld

[Decision notice FS50760630](#)

### [NHS England](#)

2 Aug 2018, Health

The complainant has requested rent, lease and ownership information about properties housing GP practices in Birmingham. NHS England (NHSE) provided a link to where some relevant information is published. It withheld other information under section 41(1) of the FOIA (information provided in confidence) and section 43(2) (commercially sensitive information). During the

investigation, NHSE withdrew its reliance on section 41(1) with regard to some of the information and applied section 21(1) to this information (information already accessible to the applicant). The Commissioner's decision is as follows: The information requested in requests 5 and 6 is exempt information under section 21(1). NHSE is correct to withhold the information requested in requests 1, 4 and 7 under section 43(2) and the public interest favours maintaining the exemption. The Commissioner does not require the public authority to take any steps to ensure compliance with the legislation.

FOI 21: Complaint not upheld FOI 43: Complaint not upheld

[Decision notice FS50717561](#)

### [NHS England](#)

31 Jul 2018, Health

The complainant has requested information about overseas trips taken by officials at NHS England. The Commissioner's decision is that NHS England has breached section 10(1) of the 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 NHS England to issue a substantive response to the request in accordance with its obligations under the FOIA.

FOI 10: Complaint upheld

[Decision notice FS50746296](#)

### [Royal Marsden NHS Foundation Trust](#)

31 Jul 2018, Health

The complainant has requested information about a clinical trial known as delta-9 that he believes took place at the Royal Marsden Hospital. The Commissioner's decision is that Royal Marsden NHS Foundation Trust (the Trust) does not hold the requested information and found that there is no breach of section 16(1) of the FOIA (duty to provide advice and assistance). The Commissioner does not require any steps to be taken as a result of this decision.

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

[Decision notice FS50747034](#)

### [NHS England](#)

31 Jul 2018, Health

The complainant requested information from NHS England in relation to reports produced by Pathway Analytics for NHS England concerning Sexual Assault Referral Centres since 1st April 2013. The Commissioner's decision is that NHS England has breached section 10 (1) of the 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 Home Office to respond to the complainant's request in accordance with the FOIA.

FOI 10: Complaint upheld

[Decision notice FS50753951](#)

### [NHS Commissioning Board](#)

30 Jul 2018, Health

The complainant has requested all information which makes up a successful bid for community dental services in Hertfordshire. NHS England refused to provide this information on the basis of section 43(2) of the FOIA. The Commissioner's decision is that NHS England has correctly applied



the section 43(2) exemption and the public interest favours maintaining the exemption. She requires no steps to be taken.

FOI 43: Complaint not upheld

[Decision notice FS50718936](#)

### [Dicconson Group Practice](#)

27 Jul 2018, Health

In three requests, the complainant has requested information about references that a doctor at Dicconson Group Practice (DGP) made in correspondence, and information about the redaction of Practice meeting minutes. In its response, DGP indicated that it holds no relevant information. The Commissioner's decision is that: DGP breached section 1(1)(a) with regard to requests [1] and [2] but, on the balance of probabilities, has complied with section 1(1)(b) with regard to all three requests. DGP breached section 10(1) as it did not comply with section 1(1) within 20 working days. The Commissioner does not require DGP to take any steps to ensure compliance with the legislation. This decision notice is currently under appeal to the Tribunal.

FOI 10: Complaint upheld FOI 1: Complaint partly upheld

[Decision notice FS50744322](#)

### [NHS Nene Clinical Commissioning Group](#)

26 Jul 2018, Health

The complainant requested the contact details of the Medical Director and confirmation that the individual was still the Executive Lead for safeguarding within the organisation. The Commissioner's decision is that NHS Nene Clinical Commissioning Group failed to respond to the request within 20 working days and therefore breached Section 10 of the Freedom of Information Act. As a response has now been issued, the Commissioner does not require the CCG to take any further steps.

FOI 10: Complaint upheld

[Decision notice FS50759891](#)

### [East of England Ambulance Service NHS Trust](#)

23 Jul 2018, Health

The complainant has requested a copy of the incident log relating to a specific incident. The East of England Ambulance Service NHS Trust (the Trust) refused the request on the basis of the section 31 exemption (Law Enforcement). During the Commissioner's investigation the Trust also cited sections 40 (third party personal information) and 41 (information provided in confidence) to the information. The Commissioner's decision is that the Trust has demonstrated that section 31 is engaged and the public interest favours maintaining the exemptions. However, the Commissioner also finds that the Trust breached section 10(1) of the FOIA as it failed to provide a response within 20 working days. As a response has now been provided she requires no steps to be taken.

FOI 31: Complaint not upheld FOI 10: Complaint upheld

[Decision notice FS50712733](#)

### [Medicines and Healthcare Products Regulatory Agency](#)

18 Jul 2018, Health

The complainant has requested information relating to reports of adverse incidents submitted to the Medicine and Healthcare Products Regulatory Agency (MHRA) from 1 April 2003 to 30 March

2017. The Commissioner's decision is that MHRA has incorrectly applied section 14(1) to the request. The Commissioner requires MHRA to take the following steps to ensure compliance with the legislation. Issue a fresh response without reliance on section 14(1). 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 the Act and may be dealt with as a contempt of court.

FOI 17: Complaint upheld FOI 14: Complaint upheld

[Decision notice FS50714178](#)

### [NHS Commissioning Board](#)

17 Jul 2018, Health

The complainant has requested information relating to complaints made against One Medical Group. NHS England refused to comply with the request under section 12 FOIA. The Commissioner's decision is that NHS England was correct to apply section 12 FOIA and that it was not therefore obliged to comply with the request. The Commissioner also considers that NHS England provided the complainant with appropriate advice and assistance in accordance with its obligations under section 16 FOIA. The Commissioner requires no steps to be taken. This decision notice is currently under appeal to the Tribunal.

FOI 12: Complaint not upheld

[Decision notice FS50719756](#)

### [NHS England](#)

17 Jul 2018, Health

The complainant has requested the emails/documents which detail Deloitte's calculation which come up with the figure of 6700 (relating to the 7 day NHS reforms). NHS England refused to provide some of the information requested under section 36(2)(b)(i) and (ii), section 36(2)(c) FOIA. Some information was provided but redactions were made to it under section 40(2) FOIA. The complainant does not consider that NHS England located all information falling within the scope of the request and therefore considers further information is held. The complainant did not however dispute the redactions made under section 40(2) FOIA. The Commissioner's decision is that NHS England correctly applied section 36(2)(b)(ii) FOIA to the withheld information and that no further information is held under section 1(1)(a) FOIA other than that which has already been provided. The Commissioner requires no steps to be taken. This decision notice is currently under appeal to the Tribunal.

FOI 36: Complaint not upheld FOI 1: Complaint not upheld

[Decision notice FS50671158](#)

### [South West Yorkshire Partnership NHS Foundation Trust](#)

16 Jul 2018, Health

The complainant has requested information from South West Yorkshire Partnership NHS Foundation Trust ('the Trust') about redundancy packages. The Trust has released some information and withheld some under section 40(2) of the FOIA as it considers this information to be the personal data of third persons. The Commissioner's decision is that: The Trust correctly applied section 40(2) to the information it withheld. The Commissioner does not require the Trust to take any steps to ensure compliance with the legislation.

FOI 40: Complaint not upheld

## [Decision notice FS50710131](#)

### [NHS Wigan Borough Clinical Commissioning Group](#)

10 Jul 2018, Health

The complainant has requested information relating to WBCCG's complaints procedures in 2014. WBCCG responded, disclosing the recorded information it holds. The complainant disputes that all recorded information held has been provided. The Commissioner's decision is that, on the balance of probabilities, WBCCG does not hold any further recorded information to that already disclosed. She therefore does not require any further action to be taken. This decision notice is currently under appeal to the Tribunal.

FOI 17: Complaint upheld  
FOI 1: Complaint not upheld

[Decision notice FS50702877](#)

### [Homerton University Hospital NHS Foundation Trust](#)

10 Jul 2018, Health

The complainant has requested information about maternal deaths since 2013 and the serious incident reports. Homerton University Hospital NHS Foundation Trust (the Trust) provided the statistical information for Q1 of the request but refused to provide the serious incident reports for Q2 of the request. The Information Commissioner's decision is that the requested information is exempt from disclosure by virtue of section 41 of the FOIA (information provided in confidence) to withhold the remaining information at Q2. The Commissioner does not require any steps to be taken.

FOI 41: Complaint not upheld

[Decision notice FS50717470](#)

### [NHS England](#)

9 Jul 2018, Health

The complainant has requested information relating to the proposed 'seven day service' in the NHS. The Commissioner's decision is that NHS England (NHSE) has correctly applied section 14(1) of the FOIA to the request. The Commissioner does not require the public authority to take any steps as a result of this decision notice. This decision notice is currently under appeal to the Tribunal.

FOI 14: Complaint not upheld

[Decision notice FS50712876](#)

### [NHS Commissioning Board](#)

9 Jul 2018, Health

The complainant has requested information relating to an investigation into the source of the figure for excess deaths as the result of patients being admitted to hospitals at weekends used by the Secretary of Health (now Secretary for Health and Social Care) in a speech on 16 July 2015. NHS England refused the request under section 14(1) of the FOIA on the basis that it was vexatious. The Commissioner's decision is that NHS England has correctly applied section 14(1) to refuse the request. The Commissioner does not require the public authority to take any action in this matter.

FOI 14: Complaint not upheld

[Decision notice FS50712824](#)

**DECISION NOTICES**  
**Keyword: Adult Social Care (returned 1 in total)**  
**1 July – 30 September 2018**

A keyword search for Adult Social Care returned one decision notices for quarter two 2018/19.

[London Borough of Bromley](#)

30 Jul 2018, Local government

The complainant requested information about the **Adult Social Care** Precept. The Commissioner's decision is that the London Borough of Bromley failed to respond to the request within 20 working days and has therefore breached Section 10 of the Freedom of Information Act. As a response has now been issued, the Commissioner does not require the London Borough to take any further steps.

FOI 10: Complaint upheld

[Decision notice FS50761605](#)