

25 June 2014

We are writing in response to your correspondence in which you made a request for information in accordance with the Freedom of Information Act 2000 (FOIA).

The Information Access team has now coordinated a response to your request.

We can inform you that CQC does hold some of the requested information; however we consider it exempt from disclosure under section 12 of the Act.

A full explanation of section 12 is provided below.

Firstly, we will explain to you the role of CQC in relation to receiving notifications about the deaths of patients, specifically with regards to learning disability services.

Although providers are required to notify in the event certain events, changes and incidents, not all providers notify CQC directly; this depends on the type of provider.

You can read more about notifications by visiting our webpage at:

www.cqc.org.uk/content/notifications

In the case of NHS Trusts, some notifications (such as those relating to the unauthorised absence or death of a patient whilst detained under the Mental Health Act) are submitted directly to CQC, whilst some are submitted to the National Reporting and Learning System (NRLS).

If a notification is submitted to the NRLS system, CQC can access this, however we usually do so when we are inspecting services as part of our intelligence monitoring.

Please see guidance on our website that explains what NHS Trusts should notify CQC about:

www.cqc.org.uk/organisations-we-regulate/registered-services/notifications/notifications-nhs-trusts

In the case of other sectors, such as Independent Hospitals and Adult Social Care, death notifications are received directly by CQC.

However, the notification of death form does not ask the provider specifically whether the death occurred in an inpatient facility or whether the death related to the service user having a learning disability.

In order for us to find this out, we would need to check every notification form received and extract this information manually.

Since 2010, CQC has received over 500,000 notifications of deaths of service users.

We consider that manually extracting information contained within over 500,000 documents would exceed the cost limit imposed by FOIA, and therefore section 12 of the Act is engaged.

Section 12- Cost Limit

CQC considers your request for information contained within death notifications to be exempt from disclosure under section 12 of the Act.

Section 12 of FOIA applies where the cost to a public authority of complying with any individual request would exceed £450. In such cases, the public authority is allowed to refuse to comply with the request for information.

As a public authority we wish to be transparent and open about our work, but we have a statutory responsibility to use our resources effectively.

Section 2(3) of schedule 1 of the Health and Social Care Act 2008 states that “It is the duty of the Commission to carry out its functions effectively, efficiently and economically.”

A public authority such as CQC is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

In calculating whether this appropriate limit is exceeded, regulation 4(4) of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 requires that the time taken in responding to requests (locating, retrieving and extracting the information) must be calculated at a rate of £25 per person per hour. Therefore, any requests where it would take over 18 hours to locate, retrieve and extract the information would exceed £450.

CQC estimate that to manually search through 500,000 notifications and extract information relating to Learning Disability services would take significantly longer than 18 hours.

CQC does not consider conducting such a search of our records to be an effective and efficient use of our limited resources.

In accordance with section 12 of FOIA, CQC chooses not to conduct such an exercise because of the high cost involved.

This response acts as a refusal notice in accordance with FOIA.

Use of this exemption does not require a public interest test.

Advice and Assistance

You may find it useful to contact the Health and Social Care Information Centre, as they have published information about the 2013 Learning Disability Census.

www.hscic.gov.uk/catalogue/PUB13149

Feedback

CQC will always endeavour to provide the highest quality responses to requests for information and seek to provide responses that are as helpful as possible. We would therefore appreciate if you can complete our online feedback form by visiting the following website:

<https://webdataforms.cqc.org.uk/Checkbox/iatfeedback.aspx>

Any information you provide will be held securely and only used for the purposes of improving the Information Rights service that CQC provide.