

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 June 2024

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

Decision

1. The Commissioner's decision is that the Care Quality Commission (CQC) is entitled to rely on section 40(2) of FOIA to withhold some of the requested information about a care home as it's the personal data of a third party and disclosure would be unlawful. The CQC breached section 1(1) and 10(1) of FOIA as it didn't disclose all the non-exempt information it holds within the statutory period. It's not necessary for the CQC to take any corrective steps.

Request and response

2. The complainant made the following information request to the CQC on 20 December 2023:

"I want to know why [redacted] closed down in 2021 - I want to know the reports that were made and the correspondence that supported closure of the care home"
3. The CQC provided some relevant information on 5 January 2024 - that it hadn't closed the care home in question, that at the time of the closure it didn't have any enforcement action ongoing against the home and that its last inspection in 2020 resulted in a rating of 'Good.' The CQC also advised that at the request of the care home's owner on 22 February 2021, the registration with the CQC was cancelled on 23 February 2021.
4. The CQC applied section 40(2) to the remainder of the request.

5. Following the complaint to the Commissioner, the CQC reconsidered the request and on 4 June 2024 disclosed further information to the complainant, with a small amount of information redacted under section 40(2). The CQC also continued to withhold the reason the care home was closed under the same exemption.

Reasons for decision

6. This reasoning covers the CQC's application of section 40(2) of FOIA to information within scope of the complainant's request. It will also consider the timeliness of the CQC's response under 'Procedural matters.'
7. Under section 40(2) information is exempt information if it's the personal data of another individual and disclosure would contravene one of the data protection principles.
8. In this case, the complainant has requested information about the closure of a care home that was owned by a specific individual – 'the data subject.' The Commissioner is satisfied that the requested information is the data subject's personal data. They can be identified from the information as they're named in the request and the information relates to them. This is because it comprises their contact details and information about the closure of their business.
9. The Commissioner appreciates that, for personal reasons, the complainant has an entirely legitimate interest in this information that would be met through disclosing the information.
10. The CQC has told the Commissioner that, as the regulator of health and social care in England, it registers providers of care, and it inspects their services to ensure that they comply with national standards (set by regulations). The CQC also publishes reports and ratings setting out its findings on the quality and safety of the care provided.
11. The Commissioner considers that the complainant's legitimate interest, and the wider public interest, has been met to an adequate degree through the information that the CQC has disclosed to the complainant, and through the information it proactively publishes about service providers it inspects. In addition, the CGC has told the Commissioner the reason the care home closed, and the reason doesn't give the Commissioner any concern in the sense that it doesn't create a wider public interest in the requested information that would justify its disclosure.

12. Based on the above factors, the Commissioner has determined that there's insufficient legitimate interest to outweigh the data subject's fundamental rights and freedoms. The data subject would reasonably expect that their personal data wouldn't be disclosed to the world at large under FOIA and so disclosing it would cause them harm and distress.
13. The Commissioner therefore considers that disclosing the requested information would be unlawful as it would contravene a data protection principle; that set out under Article 5(1)(a) of the UK General Data Protection Regulation, which says that personal data should be processed fairly and lawfully. As such, the Commissioner's decision is that the CQC is entitled to withhold the information under section 40(2) of FOIA.

Procedural matters

14. Under section 1(1) of FOIA a public authority must (a) confirm whether it hold information that's been requested and (b) communicate the information to the applicant if it's held and isn't exempt information.
15. Under section 10(1) an authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
16. In this case the complainant submitted their request to the CQC on 5 January 2024. The CQC provided information on 5 January 2024 but released further non-exempt information on 4 June 2024. The CQC therefore didn't comply with section 1(1) and section 10(1) of FOIA on this occasion.

Right of appeal

17. 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: 0300 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

18. 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.
19. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF