



North East and North Cumbria

Our Reference HM\North East and North
Cumbria ICB\FOI ICB627

NECS – John Snow House
Durham University Science Park
Durham
DH1 3YG

Tel: 0191 301 1300
E-mail: necsu.icbfoi@nhs.net

05 December 2023

Freedom of Information Act 2000 – Request for Information – NHS North East and North Cumbria Integrated Care Board (NENC ICB)

Thank you for your request received by North of England Commissioning Support (NECS) on 16 November 2023 for information held by NHS North East and North Cumbria Integrated Care Board (NENC ICB) under the provisions of the Freedom of Information Act 2000.

NENC ICB covers the areas of County Durham, Gateshead, Newcastle, North Cumbria, North Tyneside, Northumberland, South Tyneside, Sunderland and Tees Valley (which covers the 5 councils that make it up – Darlington, Hartlepool, Middlesbrough, Redcar & Cleveland and Stockton-on-Tees).

Your Request

Under the Freedom of Information Act 2000, I would like to request the following information.

In the questions below, 'Manager' or 'Managers' refers to any member of staff employed in your organisation – on either a permanent, part-time (or other) contract which includes the term 'Manager', 'Director' or 'Executive' in their job title or whom has leadership for running a clinical department or operational function for the organisation."

For clarity, I am interested in the managers internally who oversee the system, not managers working in the trusts.

If providing any of the pieces of information would exceed the cost limit set out in the Act, I would like you to continue to respond to other pieces of information being asked.

1. How many Managers are currently employed in your Trust? In addition to the total number of Managers employed, please provide a breakdown of the number of Managers employed in each department, unit or ward. If you do not keep this information on record for every unit, or ward, please provide this information for as many as you can in a digital format.

2. How many Managers were fired for gross misconduct in the year ending September 2023? Please redact any personal information.
3. How many Managers were fired on grounds of capability in the year ending September 2023? By capability, I refer to poor performance, rather than ill-health, as set out in section 98(2) in the Employment Rights Act (1996). Please redact any personal information.
4. Of Managers that are currently employed by the system:
 - a) How many are below band 8A (according to current Agenda for Change pay rates)?
 - b) How many are above band 8A (according to current Agenda for Change pay rates)?
 - c) How many are currently on long-term sickness leave?
 - d) How many are employed on part time contracts?
5. Of 'Managers' that are currently employed by your organisation, how many have responsibility for delivering your priorities for 'digital transformation'. By this, we refer to those who may be responsible for information governance, rolling out an Electronic Patient Record, or introducing innovative digital technologies.

Our Response

1. *Total - 243*
Exec – 10
Directorate of Corp Governance, Comms and Involvement – 23
Directorate of Corp Governance, Comms and Involvement Governance – 1
Directorate of Digital and Information – 5
Directorate of Finance – 13
Directorate of Nursing and People – 42
Directorate of Strategy and Operations – 20
Improvement, Experience and OD – 4
Medical Directorate – 18
North Area Corporate – 6
North Area Delivery Directorate – 58
Nursing and Quality CHC – 2
Nursing and Quality Corporate – 2
South Area Delivery Directorate – 35
South Area Place Corporate – 1
Strategy and Operations POD - 3
2. *S40 – personal information*
3. *S40 – personal information*
4. *A) 90*
B) 123
C) S40 – personal information
D) 52
5. *6*

We can confirm we hold the information for questions 2,3 and 4c, however we are applying section 40(2) – personal information as the numbers of staff is low and fell below five which could potentially make those living individuals identifiable. Information about staff members who have been fired or are on long term sick leave constitutes personal data, as defined by Article 4(1) of the UK General Data Protection Regulation (UK GDPR).

However, section 40(8) of FOIA confirms that for the purposes of considering disclosure, a public authority may consider the legitimate interest's lawful basis for processing. In considering the balance between the identified legitimate interests and the rights and interests of the individuals concerned, we must consider if the proposed disclosure would be within the reasonable expectations of the individual when the data was collected.

Such requests that would include the disclosure of personal data in response to an FOIA are required to be assessed to determine whether disclosing the data would breach the data protection principles contained within Article 5(1) of the UK GDPR.

In considering a disclosure under FOIA, we must take into account that any information released under the Act will be placed in the public domain, through our own disclosure log or by other means.

Disclosure of the personal information relating to these individuals would be contrary to the requirements of Article 5(1)(a) of the GDPR; namely that information must be processed lawfully, fairly and in a transparent manner. Those individuals would have no expectation this information would be made publicly available, and we have not identified a lawful basis that would allow or require us to disclose this information.

We therefore believe that disclosing this information would risk revealing personal data about those employees. We have followed the Information Commissioner's guidance in assessing whether it is fair to disclose this information under FOIA. This involves considering the nature of the information, the expectations of the individuals concerned and the likely potential of harm to the data subjects by disclosing the requested information. We have also considered if there is a legitimate public interest in this information being disclosed to what is considered under FOIA as disclosable to the public at large and balanced this against the rights and freedoms of the employees concerned.

We have concluded that the disclosure of living individuals' identifiable data would be contrary to the requirements of Article 5(1)(a) of the UK GDPR specifically that information must be processed lawfully, fairly and in a transparent manner.

It is not the intention of the ICB to make this information publicly available. Therefore, the data subjects would have no reasonable expectation this information would be made public either now or when the data was first created. Additionally, we have not identified a lawful basis which would require us to disclose this information. We have therefore concluded that disclosure of this information would be in contravention of the UK GDPR and as such should be exempt from public disclosure.

In line with the Information Commissioner's directive on the disclosure of information under the Freedom of Information Act 2000 your request will form part of our disclosure log. Therefore, a version of our response which will protect your anonymity will be posted on the NHS ICB website <https://northeastnorthcumbria.nhs.uk/>.

If you have any queries or wish to discuss the information supplied, please do not hesitate to contact me on the above telephone number or at the above address.

If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request a review of our decision, you should write to the Senior Governance Manager using the contact details at the top of this letter quoting the appropriate reference number.

If you are not content with the outcome your complaint, you may apply directly to the Information Commissioner for a decision. Generally, the Information Commissioner cannot

make a decision unless you have exhausted the complaints procedure provided by the North of England Commissioning Support Unit.

The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

www.ico.org.uk

Any information we provide following your request under the Freedom of Information Act will not confer an automatic right for you to re-use that information, for example to publish it. If you wish to re-use the information that we provide and you do not specify this in your initial application for information then you must make a further request for its re-use as per the Re-Use of Public Sector Information Regulations 2015 www.legislation.gov.uk . This will not affect your initial information request.

Yours sincerely

Hilary Murphy

Hilary Murphy
Information Governance Officer