



North East and North Cumbria

Our Reference HM\North East and North
Cumbria ICB\FOI ICB669

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

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

15th December 2023

Dear Applicant

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 12 December 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

Can you please provide me the salaries of each of the personal assistants to the directors or nursing and the chief operators across the ICB?

Our Response

All the posts within the scope of your request fall into NHS band 5, all employees would have the pay points shown below:

Entry Step £28,407
Intermediate £30,639
Top Step £34,581

We confirm we hold the individual salaries for each of the Personal Assistants to the Directors of Nursing and the Chief Operators across the ICB however, this is withheld in accordance with section 40(2) of the FOIA2000 as it constitutes personal data. The number of staff with that job role is low and less than five which increases the risk of those living individuals being identifiable.

Information about staff salaries 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 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 ICB's intention to make this information publicly available. Whilst we have not provided information about individual's salaries, we have disclosed the pay grade or band for those roles and therefore believe we have discharged our obligations under the FOIA by striking the balance between transparency and the need to safeguard the personal information about our employees.

As referenced above, the data subjects would have no reasonable expectation this information would be made public either now or when the data was first created. We have also not identified a lawful basis to disclose this information and have therefore concluded this disclosure would contravene 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