

Response issued under the Freedom of Information Act 2000

Our Reference: CQC IAT 1718 0196

Date of Response: 14 July 2017

Information Requested:

“Please advise what data CQC holds centrally on whistleblowing disclosures from care home staff in Devon and Somerset.

- 1) Please indicate what fields feature in CQC’s database.***
- 2) Please disclose CQC’s definition of “whistleblowing” for the purposes of data collated as “whistleblowing” on its database***

CQC has published data on the action that it has taken in response to whistleblowing disclosures. This implies that CQC holds data centrally at provider level.

Accordingly, please disclose the following data from CQC’s database: Please advise for financial years 2016/17 and 2017/2018 year to date, with respect to care homes in Devon, Somerset and Cornwall.

- 3) How many whistleblowing disclosures the CQC has received from care home staff***
- 4) Please give a breakdown of the action taken by CQC in response to all the whistleblowing disclosures in terms of these standard CQC categories:***
 - Brought forward a planned review (inspection)***
 - No other action taken***
 - Noted for future review (inspection)***
 - Outcome TBC (please disclose if TBC stands for ‘to be confirmed’)***
 - Referred to another body***
 - Triggered a responsive review (inspection)***
 - Unqualified whistleblowing (no outcome expected)***
 - Whistleblowing outcome missing***
- 5) If CQC does indeed hold data centrally at provider level, please give a breakdown of the care homes from which these whistleblowing disclosures arose and the number of whistleblowing disclosures relating to each provider.***

6) *If the nature of the whistleblowing disclosures is categorised and held centrally , please disclose the categories of whistleblowing disclosures for each care home.*”

CQC has considered your request in accordance with the Freedom of Information Act 2000 (FOIA). Our main obligation under the legislation is to confirm whether we do or do not hold the requested information. In accordance with section 1(1) of FOIA we are able to confirm that CQC does hold recorded information in relation to this matter. However, we consider that exemptions from disclosure, set out in the FOIA , are engaged in relation to some of the requested data. However, we have been able to provide some of the information you have requested, please refer to the ‘Information Request’ section below.

Before addressing your questions it may be of help to provide a brief summary of the purpose of the FOIA.

The Freedom of Information Act 2000 (FOIA)

The purpose of FOIA is to ensure transparency and accountability in the public sector. It seeks to achieve this by providing anyone, anywhere in the world, with the right to access recorded information held by, or on behalf of, a public authority.

Public authorities spend money collected from taxpayers, and make decisions that can significantly affect many people’s lives. Access to information helps the public make public authorities accountable for their actions and allows public debate to be better informed and more productive.

The main principle behind FOIA is that people have a right to know about the activities of public authorities, unless there is a good reason for them not to.

A disclosure under FOIA is described as “applicant blind” meaning that disclosure under Freedom of Information is a disclosure into the public domain not to any one individual.

FOIA also recognises that there may be valid reasons for withholding information by setting out a number of exemptions from the right to know, some of which are subject to a public interest test.

Exemptions exist to protect information that should not be disclosed, into the public domain, for example because disclosing the information would be harmful to another person or it would be against the public interest.

A public authority must not disclose information in breach of any other law.

When a public authority, such as CQC, refuses to provide information, it must, in accordance with section 17 of FOIA, issue a refusal notice explaining why it is unable to provide the information.

We will now respond to each of your questions.

Response to your information requests

1. Please indicate what fields feature in CQC's database.

Where CQC receives information of concern, including information that meets the criteria to be recorded as 'whistleblowing' (see below), details of the contact are recorded on our 'CRM' system.

The following fields are available on CRM to log, progress and track action on this information, although all fields may not necessarily be filled for every whistleblowing enquiry that we log.

- 'Organisation name' – This is the name of the care service that the contact refers to. For example, the name of the care home.
- 'Provider name' – This is the name of the registered provider that runs the care service. Our system also has unique codes for each registered provider and each care home (where this has been registered by the provider as a separate location).
- 'Category' – This records what aspect of CQC's work the enquiry relates to (e.g. the monitoring and inspection of registered services)
- 'Type' and 'sub-type' which categorise the nature of the enquiry. These fields are used to identify the enquiry as a whistleblowing issue.
- 'Priority' – Based upon the nature of the concerns.
- 'Raised date' – The date the concerns were received and logged by CQC
- 'Source' – Whether the information was received by phone, email, letter etc.
- 'Details of the concern' – This captures the details of the concerns themselves e.g. incidents being reported, dates they occurred etc. Where the whistleblower is willing to give their name and contact details to CQC, these are recorded within this field. We can also save documents as attachments to retain copies of original emails, letters and other communications we receive.
- The inspector populates an 'Outcome' field with 1 of 5 outcomes when they have reviewed the information (No Action; Brought forward planned review; triggered responsive review; noted for future review; referred to another body).
- There are also fields in which we record; whether the enquiry relates to treatment of a person detained under the Mental Health Act; Whether the concerns relate to treatment of people receiving care; Whether the person(s) experienced or are at significant risk of abuse or neglect; Whether concerns have been reported to the provider; Whether there has been an impact on safety, and whether there has been any improvement.
- If there is information about abuse, we also populate a separate safeguarding record with relevant information such as details of any

victims or abusers known, and the inspector again captures any actions they have taken in response to the safeguarding issues.

2) Please disclose CQC's definition of "whistleblowing" for the purposes of data collated as "whistleblowing" on its database

CQC's guidance for staff on whistleblowing contains the following definition. This is used to decide whether information that we receive should be categorised as 'whistleblowing' on CRM.

What is whistleblowing?

Whistleblowing is the term used when someone who works in or for an organisation raises a concern about malpractice, risk (for example, to patient safety), wrongdoing or illegality.

The individual is usually raising the concern because it is in the public interest. That is, it affects others, the general public or the organisation itself.

Anyone can share their concerns, anonymously if preferred, if they feel they are not being listened to, or might not feel able to speak directly to those responsible for delivering safe, caring, effective, responsive and well-led services that CQC expects

Who is defined as a whistleblower?

A person who reports wrongdoing in the place where they work is often called a whistleblower.

In CQC, the term 'whistleblower' means someone making a disclosure who is directly employed by, or provides services for, a provider who is registered with CQC.

Examples of a worker who provides services to a registered provider include, but are not limited to, agency staff, visiting community health staff, GPs, independent activities organisers and contractors.

A whistleblower may also be someone who has left their job after they have made a disclosure and is raising it again, perhaps because they remain concerned about vulnerable people or wrongdoing, and are not confident that the management has dealt with it.

A whistleblower is not a member of the public, a person who uses services, or their representatives, or a volunteer. If such people raise concerns about a provider who is registered with CQC, this should not be described as whistleblowing as they are not protected by PIDA [the Public Interest Disclosure Act].

It is important to note that, under this definition, a whistleblower is not always someone who is employed by the service that they are raising concerns about. A member of care home staff raising concerns about a visiting GP would be recorded on our system as a 'whistleblower' and vice versa.

CQC has published information about whistleblowing on our website:

www.cqc.org.uk/content/report-concern-if-you-are-member-staff

There is a "[Quick guide for health and social care staff about whistleblowing](#)" and "[Guidance for providers](#)" which contain additional information about whistleblowing which you may also find useful.

3) *How many whistleblowing disclosures the CQC has received from care home staff [for financial years 2016/17 and 2017/2018 year to date, with respect to care homes in Devon, Somerset and Cornwall.]*

In responding to parts 3 to 6 of your request, we have analysed data relating to care home locations in the following local authority areas:

- Bath and North East Somerset
- Cornwall
- Devon
- Isles of Scilly
- North Somerset
- Plymouth
- Somerset
- Torbay

We consider that providing a comprehensive response to this question would exceed the cost limit under FOIA, and therefore this information is exempt under section 12 of the Act.

This is because our systems do not record whether the person raising the concern is a member of staff at the service in question in a way that can be collated centrally.

We can tell you that we have recorded 315 whistleblowing enquiries in 2016/17, and 80 in 2017/18 (up to 27 June 2017) which are recorded as relating to care homes in the above areas. There were also three whistleblowing enquiries in 2016/17 and one in 2017/18 which relate to providers with care homes in those areas, but where the information we hold does not show whether the concerns are specifically linked to the homes in Devon, Somerset or Cornwall.

However, without reviewing the full details of each entry, we cannot say for sure whether all of those disclosures were actually made by staff of those

care homes (rather than, for example, a visiting GP or community health worker, as explained above).

Nor could we identify how many disclosures we have received from care home staff which relate to other services (such as a visiting GP) without a much wider review of data covering all services.

We consider that such work would significantly exceed the cost limit of FOIA, and therefore we are exempt from providing this information under section 12 of FOIA.

I hope the above information, though not exactly to the letter of what you have asked for, provides you with the information you require – as it shows the number of whistleblowing enquiries received by CQC in relation to care homes in the defined area.

If you do require more detail – i.e. to identify whether these concerns were passed to CQC by employees of those care homes (rather than other care workers with links to the services) and/or to identify the number of whistleblowing concerns about other services raised by the staff of these care homes, please let us know and we will consider and advise you as to what information may be available within the cost limit of FOIA.

4) Please give a breakdown of the action taken by CQC in response to all the whistleblowing disclosures in terms of these standard CQC categories:

- **Brought forward a planned review (inspection)**
- **No other action taken**
- **Noted for future review (inspection)**
- **Outcome TBC (please disclose if TBC stands for ‘to be confirmed’)**
- **Referred to another body**
- **Triggered a responsive review (inspection)**
- **Unqualified whistleblowing (no outcome expected)**
- **Whistleblowing outcome missing**

The attached spreadsheet gives the recorded outcome for whistleblowing enquiries in 2016/17 and 2017/18 (Between 1 April and 27 June 2017).

Please note that these are the outcomes recorded against the whistleblowing enquiries recorded on CRM. In some cases, there may be more than one enquiry relating to the same disclosure – for example, if the whistleblower has contacted CQC a second time to provide further information relating to the same disclosure.

The spreadsheets also show provider level whistleblowing enquiries, where concerns have been raised regarding a provider with at least one care home within Devon, Somerset or Cornwall but where the information held by CQC

does not definitively show whether those concerns related to homes in those areas.

When perusing the spreadsheet Column 4 refers to No other action taken. This can be for a number of possible reasons, for example

- CQC had already been made aware of the issue
- The issue was an unsubstantiated concern or
- The matter fell outside of CQC's regulatory process

As you have indicated the reference to TBC means outcome to be confirmed.

5) If CQC does indeed hold data centrally at provider level, please give a breakdown of the care homes from which these whistleblowing disclosures arose and the number of whistleblowing disclosures relating to each provider.

CQC does hold this data, however we consider it to be exempt from disclosure under section 31(2) of the FOIA.

Section 31(2) applies where information is held by a public authority for regulatory purposes (listed under section 31(2) of the Act) and relates to the obtaining of information from confidential sources.

We consider whistleblowers who contact CQC to be confidential sources, and that the number of contacts received from whistleblowers at specific services is information which 'relates to the obtaining of information from confidential services'.

Whilst we recognise the general public interest in transparency, and the specific interest in whistleblower information, we consider that these interests are outweighed by the risk that disclosure of this information may identify whistleblowers and may discourage care workers from raising concerns to CQC in future. In making this determination, we are mindful that disclosure of these figures would not give any meaningful indication as to the nature of the issues raised, or of the quality and safety of the services.

6) If the nature of the whistleblowing disclosures is categorised and held centrally, please disclose the categories of whistleblowing disclosures for each care home.

CQC does not hold a central categorisation of all of the whistleblowing enquiries within scope.

To the extent that we do hold data as to the nature and content of the whistleblowing enquiries, we consider that this information – linked to specific care services – would be exempt under section 31(2) of FOIA for the same reasons as set out above.

We also consider that analysis and categorisation of the whistleblowing enquiries would exceed the cost limit of FOIA, but we note that you have not asked us to do this.

CQC Complaints and Internal Review procedure

If you are not satisfied with our handling of your request, then you may request an internal review.

Please clearly indicate that you wish for a review to be conducted and state the reason(s) for requesting the review.

Please be aware that the review process will focus upon our handling of your request and whether CQC have complied with the requirements of the Freedom of Information Act 2000. The internal review process should not be used to raise concerns about the provision of care or the internal processes of other CQC functions.

If you are unhappy with other aspects of the CQC's actions, or of the actions of registered providers, please see our website for information on how to raise a concern or complaint:

www.cqc.org.uk/contact-us

To request a review please contact:

Information Access
Care Quality Commission
Citygate
Gallowgate
Newcastle upon Tyne
NE1 4PA

E-mail: information.access@cqc.org.uk

Further rights of appeal exist to the Information Commissioner's Office under section 50 of the Freedom of Information Act 2000 once the internal appeals process has been exhausted.

The contact details are:

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

Telephone Helpline: 01625 545 745
Website: www.ico.org.uk