

From: Information Access <REDACTED>

Subject: CQC IAT 2223 1026

Date: 28 April 2023 at 09:00:16 BST

To: Minh Alexander <REDACTED>

Dear Dr Alexander

Freedom of Information Act 2000 – CQC IAT 2223 1026

I write on behalf of the Care Quality Commission (CQC) in response to your request under the Freedom of Information Act 2000 (FOIA) made on 16 March 2023.

As we advised you by email of 17 April 2023 we required further time to consider the public interest test for this request, in accordance with section 10(3) of FOIA.

You requested the following information:

FOI request Triggering of emerging concerns protocol and risk summit meetings about University Hospitals Birmingham NHS Foundation Trust (UHB)

Please disclose, to CQC's knowledge,

1) How many times CQC has triggered the multi-agency emerging concerns protocol on University Hospitals Birmingham NHSFT in the last 5 years

Please give the dates on which CQC triggered the protocol

Please give a broad outline of why CQC triggered the protocol on these occasions.

CQC has not triggered the Emerging Concerns Protocol (ECP) in relation to University Hospitals Birmingham NHS Foundation Trust (UHB).

It should be noted that the ECP is not the only mechanism or legal framework for regulators to share information. Nor is it designed as a mechanism for sharing only the most serious or substantial information of concern.

The protocol itself states that it is intended as a mechanism for making other regulators aware of information which may not be shared under other existing arrangements. The ECP can therefore act as a mechanism to share and triangulate 'soft' information (e.g. unverified or intuitive concerns) in circumstances where the information held by one organisation is not, in itself, enough to trigger a regulatory response.

It is important to understand that organisations which were the subject of information sharing under the ECP should not be taken to be the organisations about which CQC (or any other party) had the greatest concerns. Nor should it be taken that the

absence of a trigger under the ECP indicates that CQC (or any other party) did not have concerns or did not share information with other regulators.

2) How many times have other signatories to the emerging concerns protocol triggered the protocol about UHB?

Please give the dates on which these other bodies triggered the protocol.

The protocol recognises that the organisations involved should be transparent about how the protocol is used, while maintaining confidentiality of content.

When parties to the ECP share information they do so in an expectation of confidentiality.

In particular, we are mindful that publication of information about organisations that were subject to information sharing under the ECP would be likely to have the effect of making CQC colleagues and partner organisations more hesitant to share information – in particular unevidenced or ‘soft’ information where public disclosure would risk causing unwarranted reputational harm. Such an effect would be likely to prejudice the effectiveness of the ECP as a tool for sharing information to support decisions by the signatory organisations as to whether circumstances exist, or may arise, that warrant a regulatory response.

We therefore consider this information to be exempt from disclosure under section 31 of FOIA.

3) Did CQC trigger the emerging concerns after receiving the July 2021 UNISON dossier on staffside concerns about the management culture and related safety issues at UHB?

See the response to question 1.

4) How many regulatory risk summit meetings, equivalents or similar meetings have been held about UHB in the last five years?

Please give the dates of these meetings.

CQC did not attend, and does not hold information about, any regulatory risks summit meetings (or similar) held about UHB in the 4 years up to 31/03/2022. We do routinely engage with external organisations as part of our usual monitoring process. UHB has been discussed at various meetings as part of this ongoing monitoring and information sharing, but this has always been part of an agenda amongst other stakeholders rather than being meetings specifically about UHB.

CQC will not disclose whether or not we have attended any regulatory risks summit meetings (or similar) about UHB since 01/04/2022 as disclosing recent information

about this type of activity would be likely to be prejudicial to the exercise of our regulatory functions.

This prejudice would arise in various ways, including by; unfairly releasing potentially misleading information about CQC's current regulatory approach and risk assessment of the provider, giving an indication as to whether or not unannounced regulatory activity is likely to be imminent, and in discouraging CQC and other parties from sharing potentially sensitive information due to concern about disclosure under FOIA.

We have considered the public interest in transparency relating to the regulatory oversight of this provider that would be served by disclosure of the information you requested.

Against this we have considered the public interest in maintaining the integrity and fairness of regulation, and protecting the ability for regulators to share intelligence in confidence.

It is CQC's view that the balance of public interest favours disclosure of the information relating to the use of the ECP by CQC (questions 1 and 3) and also disclosure of information about risk summits (and similar) in relation to this specific provider up to 31/3/2022 (question 4). It is our view that the balance of public interest favours withholding the other information that you requested. We therefore consider this further information to be exempt from disclosure under section 31 of FOIA.

I hope that this information is helpful to you. If you are unhappy with how CQC has handled your request for information you can ask us to conduct an internal review by emailing information.access@cqc.org.uk. You can find more information about how we handle personal data and your rights at www.cqc.org.uk

You also have a right to refer the matter to the Information Commissioner's Office (ICO) for independent review. You can find further information and contact details at www.ico.org.uk

Regards

On behalf of:
Information Access Team