

Please contact: Access to Information Team

Email: MLCSU.FOITeam@nhs.net

Direct tel: 01782 872648

15 September 2022

Dear

Re: Your request for information under the Freedom of Information Act 2000

Ref no: FOI-2442 and FOI-2468-LSC

Further to your email dated the 1 September 2022 in which you requested an internal review of the responses provided to FOI-2442-LSC and FOI-2468-LSC under the Freedom of Information Act 2000. We have reviewed both responses and can confirm that this is now concluded.

Your original requests were:

FOI-2442-LSC:

- In reply to this FOI (FOI-2429-LSC) can you provide me with what the 4 payments were for [what contact] and why it took so long to pay.

FOI-2468-LSC

- The CCG made 186 payments to Virgincare under the FOI Act can you provide me with a copy of 186 Virgincare invoices.

Our response was:

We can confirm that the Integrated Care Board (ICB) does hold the information you requested above, however as you have previously made multiple requests, under the Freedom of Information Act

(FOIA) 2000 reference numbers FOI-2342-WL, FOI-2369-WL which also included an internal review, FOI-2398-LSC, FOI-2429-LSC, these are all linked to financial information relating to Virgin Care.

Under the FOIA, Section 12 (1) Lancashire and South Cumbria (LSC) ICB are permitted to aggregate requests within 60 working days of each other and consider the costs of dealing with them collectively rather than the cost of dealing with each request individually.

We are mindful of the guidance provided by the Information Commissioner's Office which states that requests can be regarded as relating to the same or similar information, for example, there is an overarching theme or common thread running between the requests in terms of the nature of the information that has been requested.

In accordance with the Freedom of Information and Data Protection (appropriate Limits and Fees) Regulations 2004. If a request or multiple requests exceeds this amount, then a public authority can issue a fees notice.

From our preliminary assessment, we estimate that compliance with your request would exceed the appropriate cost limit under Section 12 of the FOIA. This is currently set at £450.00 (£25 x 18hours = £450).

This is calculated on a standard rate of £25 per hour based on estimating the staff time taken and broken down as follows:

- Staff costs (£25 per hour) involved in determining whether the ICB holds the information.
- Staff costs (£25 per hour) of locating, retrieving and extracting the information. Edit or extract the releasable information contained within a document
- Disbursement and staff costs (£25 per hour) incurred in informing the applicant that the information is held.
- Disbursement and staff costs (£25 per hour) incurred in communicating the information to the applicant.

After completing a scoping exercise to provide the requested information to each of the requests these were our findings:

FOI-2342-WL this took approximately 2 hours to complete

FOI-2369-WL this took approximately 3 hours to complete, this was followed up with an internal review

FOI-2398-LSC this took approximately 1.5 hours to complete

FOI-2429-LSC this took approximately 1 hours to complete

FOI-2442-LSC: This would take approximately 2 hours to complete

FOI-2468-LSC This would take approximately 10 hours to complete

Section 9 of the FOIA in relation to Fees states:

1. A public authority to whom a request for information is made may, within the period for complying with section 1(1), give the applicant a notice in writing (in this Act referred to as a “fees notice”) stating that a fee of an amount specified in the notice is to be charged by the authority for complying with section 1(1).
2. Where a fees notice has been given to the applicant, the public authority is not obliged to comply with section 1(1) unless the fee is paid within the period of three months beginning with the day on which the fees notice is given to the applicant.

We consider that to provide any of the information requested including the aggregated requests listed above would take us over the appropriate limit of 18 hours and as a result, we are refusing your request under section 12 of the Freedom of Information Act 2000 and issuing you with a fees notice.

For Lancashire and South Cumbria ICB to comply with this request a payment of £450.00 must be made before the release of any further information. Should you wish to continue on this basis then the following fees payment would need to be made to the following:

Paying by BACS / IAT / Faster Payment / CHAPS:

The bank account details for NHS Lancashire and South Cumbria ICB are:

BANK NAME: NatWest

SORT CODE: 60-70-80

ACCOUNT NUMBER: **10014969**

ACCOUNT NAME: **NHS Lancashire & South Cumbria ICB**

More information can be found on the following link below:

https://ico.org.uk/media/for-organisations/documents/1199/costs_of_compliance_exceeds_appropriate_limit.pdf

Following receipt of our response, you requested a review on 1 September 2022 stating:

I ask for a review on this FOI reply 2442 as I have not asked repeated questions on this one ,and you have informed they were back payments,I am asking what were there payments for.

On FOI 2448 my first question was how many payments were made to virgincare and you informed me was a 186 ,that could total to 4.6 million with no accountability and I am asking you to be accountable ,as I am sure you don't want your external auditor making comments in there end of year report saying like the westlancashire CCG external auditor said we have reason to believe that the CCG or a officer of CCG is about to make or has made unlawful expenditure and if followed it concussion will be a unlawful and likely to cause a deficiency .which the CCG had when closed , I am looking for accountability on taxpayers money .

We have considered our original response and to provide the information requested, including the requests we have already responded to (which equates to approximately 7.5 hours) would take us over the appropriate limit of 18 hours as detailed above. The Information Commissioner's Office states that requests can be regarded as relating to the same or similar information, for example, there is an overarching theme or common thread running between the requests in terms of the nature of the information that has been requested.

The information you requested as stated in the original response has a common theme as it all relates to financial information in relation to Virgin Care.

FOI-2342-WL you requested: *Can you provide me with the date you discussed the rebate for CAS and when you received it. This took approximately 2 hours to complete.*

FOI-2369-WL you requested: *How many 25k and under payments has westlancashire CCG payed to virgincare/HRCG from 2019 to 2022 . This took approximately 3 hours to complete, this was followed up with an internal review*

FOI-2398-LSC you requested: *I have been looking on your website on how we spend your money but from October 2019 to April 2021 the screenshot is I have sent just say PAGE NOT FOUND. Can you please send me copy's of the dates I am looking for. This took approximately 1.5 hours to complete*

FOI-2429-LSC you requested: *In this screen shot it shows us you paid virgincare your private provider the same amount 4 times £87,227.81. Was this a mistake ? As you have informed me before the you lump all virgincare payments as it easier so why didn't you just lump them altogether?*

As you are aware I have asked you to be open and transparent with virgincare payment but the 4 payment all the same makes me suspicious of your lump secret payments system to virgincare. This took approximately 1 hour to complete.

FOI-2442-LSC you requested: *IN CONNECTION TO FOI-2429-WL In reply to this FOI can you provide me with what the 4 payment were for[what contact] and why it took so long to pay. This would take approximately 2 hours to complete.*

FOI-2468-LSC you requested: *Linked to FOI-2369-WL The CCG made 186 payments to virgincare under the FOI act can you provide me with a copy of 186 virgincare invoices .This would take approximately 10 hours to complete.*

Therefore, after further consideration, our position remains unchanged and we are upholding our decision to apply Section 12(1) of the Freedom of Information Act 2000. In order for Lancashire and South Cumbria ICB to comply, a payment of £450.00 must be made before the release of any further information. Should you wish to continue on

this basis, a fees payment would need to be made to Lancashire and South Cumbria ICB via the account details mentioned above. Once the payment has been confirmed, we will collate the outstanding information and provide it to you within the statutory timescale.

If you are not content with the outcome of your internal review, you may apply directly to the Information Commissioner's Office (ICO) for a decision. Generally, the ICO cannot make a decision unless you have exhausted the CCGs FOI complaints procedure. The ICO can be contacted at:

Information Commissioner's Office, Wycliffe House, Water Lane,
Wilmslow, Cheshire, SK9 5AF
www.ico.gov.uk

Yours sincerely

**On behalf of Kevin Lavery
ICB Chief Executive**