

Date: **25 June 2020**

Dear Mr Young

**Request for Information
FOIRQ5779**

Thank you for your email of 8 April 2020, which we have treated as a request made under the Freedom of Information Act 2000 ('FoIA'). Thank you for your patience whilst we have completed our review. Please accept our apologies that our response was not provided within the initial statutory timeframe.

You have requested the following:-

All reports resulting from an "invited review" by any Academy of Medical Royal Colleges member in the last five years.

We have given careful consideration to your request and have conducted a search for information falling within its scope. We can confirm that we hold the following reports:

- Invited Service Review Report on the Paediatric Urology Surgical Service dated 23rd and 24th May 2019, carried out by the Royal College of Surgeons (**ISR**); and
- Invited Clinical Record Review Report on seven clinical records relating to Paediatric Urology Service at Great Ormond Street Children's Hospital NHS Foundation Trust dated 9th May 2019 (**CR**)
- RCPCH Invited Review and Follow Up Review (**RCPCH Reviews**).

With regard to the RCPCH Reviews, we can confirm that these have previously been disclosed to you under the FOIA. This refusal notice therefore relates to the disclosure of the ISR and the CR.

Decision

The Trust has reviewed the content of both the ISR and CR and consider that they are exempt from disclosure in their entirety. We set out below the exemptions which we rely upon.

Please note that the Trust has published a summary and recommendations arising from the ISR and these are accessible via the Trust's website at <https://www.gosh.nhs.uk/about-us/who-we-are/our-organisational-structure/trust-board/trust-board-meetings>. They appear in Part 2 of the papers for the Board Meeting held on 27 November 2019.

Exemptions

The Trust considers the CR and the ISR to be exempt from disclosure on the basis of the following exemptions.

- S.36(2)(b)(ii) and 36(2)(c) – Disclosure would be likely to inhibit the free and frank exchange of view or otherwise prejudice the effective conduct of public affairs (please note that the Trust's Chief Executive as the Trust's Qualified Person for the purposes of FoIA has confirmed that in his opinion, s.36 applies to the reports);

We consider that the content of both the ISR and CR if disclosed would be likely to prejudice the Trust's ability to engage in free and frank discussion. The Trust must be entitled to protect a space in which candid and open discussion can take place to assess and improve the quality of our services. Disclosure of the ISR and CR to the world at large would be likely to be prejudicial to the development of the service and the Trust's work with the Royal College. The issues discussed within the ISR and CR are still live and matters are still in deliberation and therefore disclosure would undermine the ability of the Trust to work collaboratively with the service and the Royal College.

Staff would not be willing to be honest or open if their comments could be made publically available and this would undermine the purposes and process of an invited review. A loss of the ability to be frank and open in relation to the issues facing the Service would damage the review process and is likely to undermine the outcome. Significant efforts have been made by those at the Trust and the Royal College since the ISR and CR were completed and disclosure at this point would undermine the process.

The Chief Executive has considered the application of Section 36 and has reached an opinion that it is applicable in these circumstances and is considered reasonable. The Chief Executive is fully aware of the background to the issues which are explored by the ISR and CR and has had sight of both reports. The Chief Executive considers that prejudice would be likely to be caused by disclosure and further details as to the information taken into account appears in the enclosed opinion.

- S.40(2) – Personal Data which if disclosed would breach one or more of the data protection principles;

Information within the ISR and CR is the personal data of employees of the Trust. The Trust considers that the individuals would have a reasonable expectation that their personal data where it appears in the context of a Royal College review would not be disclosed publically where issues are ongoing. The staff mentioned or

identifiable within the ISR and CR are not senior staff and therefore we do not consider there is an expectation that their data would be disclosed.

The CR also contains personal data and special category data of patients treated by the Trust and we do not consider it would be legitimate to disclose it. Individuals have an expectation that their medical information will be treated and kept in confidence and we consider to disclose it would be a breach of GDPR.

Public Interest Test

Section 36 is a qualified exemption which means it is subject to the public interest test. We have considered the competing public interest arguments in this instance, taking into account the public interest in transparency and openness, as against the Trust's need to be able to take part in reviews of this kind within a protected space. After careful deliberation we find that the public interest balance falls in favour of withholding the requested information at this time.

We set out below the issues taken into consideration as part of the public interest test:

For Disclosure

- Presumption of disclosure under FOIA
- Transparency in public services
- Public interest in the expenditure of public funds and the performance of public services
- Disclosure provides confidence to allow the public to understand the steps taken by the Trust and the safety of services.

Against Disclosure

- Given the Trust continues to work with the Royal College in relation to the ISR and CR, the public interest favours allowing the process to complete. Disclosure at this stage would be likely to undermine the Trust's ability to resolve the issues without premature disclosure and public scrutiny.
- Releasing the ISR and CR in full whilst work with the Royal College continues would be likely to undermine the relationship between the Trust and the staff involved.
- Previous disclosures in relation to this subject led to intrusive and unreasonable press activity. Members of staff were door-stepped by the press.
- The Trust must be able to protect a space in which to explore the quality of services in a candid and robust manner. If disclosure in full were to take place, this is likely to dissuade staff from engaging fully in these reviews and those in the future.
- The Trust has already disclosed the Executive Summary and the Recommendations

which goes some way to setting out the background and the recommended actions and which also allows the issues being reviewed by the Royal College to be understood by the general public.

- It is not possible to redact or provide further sections of the ISR or CR.

Please note:

The information we have provided under the Freedom of Information Act 2000 is the information held on the date your request was received by the Trust.

We hope the information provided is sufficient and helpful in answering your questions or any issues or concerns. Should you have any further queries in relation to this request, please do not hesitate to contact the FOI Team and quote the above reference number on any related correspondence.

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If you have any complaint about the way in which your request has been handled, please write to foiteam@gosh.nhs.uk, who will conduct a review. If your complaint is not resolved to your absolute satisfaction, you have the right to apply to the Information Commissioner for a decision. The Information Commissioner can be contacted by writing to Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely

Freedom of Information team

Great Ormond Street Hospital for Children NHS Foundation Trust

Email: foiteam@gosh.nhs.uk

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Yours sincerely

Freedom of Information team

Great Ormond Street Hospital for Children NHS Foundation Trust

Email: foiteam@gosh.nhs.uk

[Enclosed – Your rights – see next page]

Your Rights

Should you have any questions relating to the response you have received to your request for information, please do not hesitate to contact the FOI Team. Alternatively, you are entitled to make a request for an internal review within two months from the date of receiving our final response to your original request. You can also write to the Head of Quality & Safety at the following address:

Quality & Safety team
Great Ormond Street Hospital
LONDON
WC1N 3JH

If, however, you remain dissatisfied with the outcome of the internal review then you have the right to appeal to the Information Commissioner as the final stage of the FOI process. You can contact the Information Commissioner's Office at the following address:

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

Telephone: 0303 123 1113
Fax: 01625 524510