

Freedom of Information Act 2000 – Request Reference FoI/24/237

Dyfodol

Information Requested:

Under the Freedom of Information Act 2000, I would like to request the following information:

1. A copy of the notes made by [named individual] following my meetings with him on 3rd April 2023 and 17th April 2023, where I raised concerns regarding the legality and safety of the Cardiff Dyfodol Service.
2. An explanation as to who is the CD Accountable Officer for the Cardiff and Vale Dyfodol service commissioned by the Area Planning Board.
3. Any policies which set out the governance mechanism for ensuring compliance with health related legislation within the commissioned Dyfodol service.
4. Any documents relating to the actions which were taken in response to the concerns I raised to [named individual] in April of 2023, to include minutes of meetings held, and reports of any inspections undertaken and any subsequent recommendations and any actions that were taken.

Response Details:

In response to point 1

In respect of your request for notes made following meetings on 3 April 2023 and 17 April 2023, Cardiff and Vale University Health Board (the UHB) believes that some of the data requested is classed as personal data as defined under the General Data Protection Regulation (GDPR) and the Data Protection Act 2018. Its disclosure would be contrary to the data protection principles and constitute unfair and unlawful processing with regard to Articles 5, 6, and 9 of the GDPR. We are therefore withholding this detail under section 40(2) of the Freedom of Information Act 2000 ('the 2000 Act'). This exemption is absolute and therefore there is no requirement to apply the public interest test.

Additionally, the UHB believes section 31(1)(g) of the 2000 Act to be engaged. In accordance with section 31(2)(i) and (j), the UHB, as a public authority, has been entrusted with securing the health, safety and welfare of persons at work, and with protecting persons other than persons at work against risk to health or safety arising out of or in connection with the actions of persons at work respectively.

The functions specifically applicable to the UHB, in its capacity as an employer, with a view of securing the health, safety and welfare of persons at work, are designated by section 2(1) of the Health and Safety at Work etc. Act 1974 ('the 1974 Act'), which provides that:

'It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.'

Equally applicable to the UHB, in light of its designated purpose of protecting persons other than persons at work against risk to health or safety arising out of or in connection with the actions of persons at work, is section 3(1) of the 1974 Act which states the following:

'It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.'

Moreover, section 31(2)(j), which lists the designated purpose of protecting the public, also demands that the UHB fulfils its specific function of providing medical services; services or facilities for the prevention of illness, the care of persons suffering from illness and the after-care of persons who have suffered from illness; and such other services or facilities as are required for the diagnosis and treatment of illness, pursuant to section 3(1) of the National Health Service (Wales) Act 2006 ('the 2006 Act').

In addition to the stated functions relating to care provision, section 12A(1) of the 2006 Act also provides the UHB with the duty of 'securing improvement in the quality of health services'. Section 12A(2) of the same Act confirms that this 'includes, but is not limited to, quality in terms of— (a) the effectiveness of health services, (b) the safety of health services, and (c) the experience of individuals to whom health services are provided'.

The designated purposes of protecting the UHB's employees and members of the public is also imposed upon the UHB by regulation 23 of The National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011, which requires the UHB to investigate matters raised in the notification of a concern in the most appropriate manner that appears to it.

In light of the UHB's specifically entrusted functions as outlined above, it follows that these functions are not merely ancillary, rather, they are a sufficiently important part of the UHB's overall structure designed to ensure a safe healthcare system for its patients and a secure environment for its employees. In order to uphold these functions, it is essential to maintain confidentiality and thus allow employees to feel sufficiently comfortable to raise concerns in the knowledge that their comments will not be improperly disclosed to a wider audience. If employees are deterred from openly escalating concerns regarding patient safety, the UHB will be unable to properly bring forward its stated functions, which could subsequently lead to reduced safety and a poorer experience for those accessing health services.

The UHB believes that the public interest in favour of disclosure is outweighed by the public interest against disclosure. While there is a clear interest in disclosing information that promotes accountability and transparency in order to maintain confidence and trust in the UHB, there is a more compelling interest in securing the health and safety of employees and in protecting the public through creating an environment in which members of staff can freely share concerns – which may include detail about specific patient care and treatment – without fear these will be transmitted to the general public.

It was therefore decided that it is not in the public's interest to disclose this information.

In response to point 2

The UHB does not hold the information requested in relation to the Controlled Drugs Accountable Officer. Dyfodol is part of a consortium with the lead provider being G4S. This is commissioned by the Police and Crime Commissioner (PCC) and HM Prison and Probation Service (HMPPS). G4S subcontract the clinical element of Dyfodol to Kaleidoscope who provide all clinical services for Dyfodol.

In response to point 3

The UHB does not hold the information requested in relation to the policies setting out governance mechanisms. Instead, G4S and Kaleidoscope will hold their own policies on this matter. The service governance therefore sits with the PCC and HMPPS as the commissioners.

In response to point 4

Please see the attached PDFs for information on the inspection report which took place on 8 June 2023 and the associated correspondence. Please note that certain information has been redacted in accordance with section 40(2) of the Freedom of Information Act 2000.