

Dear Ms French,

Re: Freedom of Information request (Our Ref: FOI-053329)

Thank you for your Freedom of Information (FOI) request dated 28 April 2017.

Your exact request was:

“We would like to be sent a file containing a list of all @nhs.net and @nhs.uk e-mail addresses for GP Practice staff members signed up to the GP Bulletin (<https://www.england.nhs.uk/publications/bulletins/>). This file should also include the GP Practice ID, GP Practice address and Fax Number (where available).”

NHS England holds some relevant information.

However, this information is being withheld under Section 40 (personal information) and Section 43 (commercial interests) of the FOI Act.

It may help if we explain that the distribution list for the GP Bulletin is made up of two parts. The first is of people who have signed up out of personal choice. The second is a distribution list which NHS England purchased from a company named Binleys. Of those who are part of the distribution list who have @nhs.net and @nhs.uk email addresses, the majority are employed by practices themselves rather than NHS England.

In the instances where practice staff members signed up to the GP Bulletin themselves, this information is withheld under Section 40 of the FOI Act, as the information constitutes third party data. Section 40(2) provides that personal data about third parties is exempt information if one of the conditions set out in Section 40(3) is satisfied.

Under the FOI Act, disclosure of this information would breach the fair processing principle contained in the Data Protection Act (DPA), where it would be unfair to that person/is confidential. Releasing this information would breach the data protection protocol as it would be unfair to release individuals' details when they did not intend them to be used in such a way. Section 40 is an absolute exemption and therefore not subject to the public interest test when considering disclosure of information.

NHS England holds a list of those who have signed up to the GP bulletin voluntarily. As explained above, the personal information of individuals that signed up have been removed. However, as your request asks for practice contact information, this is not considered to be personal information. Therefore we have provided the distribution

list, as NHS England holds it, with the personal information removed. This leaves the addresses and postcodes of practices. Individuals who sign up are not required to provide a practice code and therefore this information is not held as part of this list. While NHS England does hold practice codes, they are not held in relation to this information and are not held together. Please note that practice codes are in the public domain and can be accessed via the NHS Digital website:

- <https://www.digital.nhs.uk/GP-Data-Hub>

Please note that when people sign up to the bulletin they are asked to provide a name, address and email address. As long as they have a valid email address they are added to the list. Therefore, not all of the contact information in the list is valid but has been provided in the format that it is held.

The information which NHS England purchased from Binleys is being withheld under Section 43(2) of the FOI Act, which exempts from the general duty to release information which would, or would be likely to, prejudice the commercial interests of any entity, including the public authority holding the information.

Section 43(2) is a prejudice based exemption and, as such, we are required to assess both the prejudice test and the public interest test in withholding this information against that of its release. When assessing the prejudice test, NHS England need to demonstrate that there would be an impact on the commercial interests of NHS England or upon a third party should this information be released.

Providing the information on this list would undermine the commercial interests of Binleys as the distribution list is a commercial product. If the list were to be released, Binleys would lose income which would negatively impact their commercial activity as they collect and collate this information. The collated list with contact information, as purchased from Binleys, would be commercially sensitive as this is information (in a usable format) makes up a product which Binleys sell on a commercial basis. This information would also potentially give a commercial advantage to any competitor of Binleys as they would be able to use the list Binleys have collected and collated. Release of this information would also impact upon NHS England's commercial interests as we purchased the list as part of a licence agreement. Releasing the information would therefore make NHS England liable to pay compensation to Binleys for breaching the licence agreement.

It is worth noting that practice contact information (including addresses and fax numbers) is available in the public domain and can be found on the NHS Choices website. However, it is the collated version of this information which is commercially sensitive.

NHS England is also required to conduct the public interest test, which assesses whether releasing the information would be in the public interest despite the prejudice test being satisfied. It is important to bear in mind that any disclosure under the FOI Act is a disclosure to the public at large and not just to the applicant.

We recognise that there is a general public interest in the release of such information in-line with NHS England's commitment to openness and transparency. However, we do not believe that this public interest is served in disclosure for damage that would be caused as outlined above.

We hope this information is helpful. However, if you are dissatisfied, you have the right to ask for an internal review by writing to us, within two months of the date of this letter, to:

NHS England
PO Box 16738
REDDITCH
B97 9PT

Email: england.contactus@nhs.net

Please quote the reference number FOI-053329 in any future communications.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner's Office (ICO) can be contacted at:

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

Telephone: 0303 123 1113
Email: casework@ico.gsi.gov.uk
Website: www.ico.gov.uk

Please note there is no charge for making an appeal.

Please be aware that in line with the Information Commissioner's directive on the disclosure of information under the FOI Act, your request will be anonymised and published on our website as part of our disclosure log.

Please do not reply to this email. This message has been sent from a central mailbox. To communicate with NHS England regarding Freedom of Information (FOI) requests, enquiries or complaints we ask these are sent directly to NHS England's customer contact centre. This is to ensure all communications are progressed correctly. Their postal address, telephone number and email details are as follows:- PO Box 16738, Redditch, B97 9PT; 0300 3 11 22 33, england.contactus@nhs.net.

Yours sincerely,

Freedom of Information

Corporate Communications Team

Transformation and Corporate Operations Directorate

NHS England
PO Box 16738
REDDITCH
B97 9PT

Tel: 0300 311 22 33

Email: england.contactus@nhs.net

'High quality care for all, now and for future generations'

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