



# Resolution

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May 2019  
FOI\_3609

The following information was requested on 31 January 2019:

1) *Please share aggregate spreadsheet data on the total numbers of referrals of doctors from each NHS trust to NCAS for the years:*

2014/15  
2015/16  
2016/17  
2017/18

2) *Please advise if NCAS tracks the number of whistleblowers who are referred to NCAS (doctors who have made public interest disclosures before being referred to NCAS*

*If so, please give the total number of doctors, since February 2015, who have been referred to NCAS after making public interest disclosures.*

I apologise for the delay in responding to you and as you know we have kept you informed of our progress.

## Our response

1) *Please share aggregate spreadsheet data on the total numbers of referrals of doctors from each NHS trust to NCAS for the years:*

2014/15  
2015/16  
2016/17  
2017/18

Practitioner Performance Advice (formerly National Clinical Assessment Service) provide impartial and expert advice to employers and contracting healthcare organisations to support the local management and resolution of performance concerns relating to individual doctors, dentists and pharmacists. The service is an advisory body and any decision making in relation to the employment or practice status of an individual practitioner remains for the employer. In all cases, we provide advice to help ensure that where concerns have been raised about an individual these are managed and resolved in a fair, proportionate and timely way. Patient safety and public protection are our paramount concerns.

Information is provided about the number of new requests for advice received from 2014/15 to 2017/18 about doctors working in secondary care in England by NHS Region.

	2014/15	2015/16	2016/17	2017/18	Total
NHS England Midlands & East	139	176	171	143	629

NHS England South East	87	101	92	99	379
NHS England London	102	128	106	124	460
NHS England North	193	182	180	196	751
NHS England South West	50	50	54	44	198
<b>Total</b>	<b>571</b>	<b>637</b>	<b>603</b>	<b>606</b>	<b>2417</b>

In respect of a breakdown by individual trusts we believe Section 36 of the Freedom of Information Act is applicable and this part of the request is withheld due to Prejudice to effective conduct of public affairs. The relevant section states:

*36 (2) Information to which this section applies is exempt information if, in the reasonable opinion of a qualified person, disclosure of the information under this Act—*

*(b) would, or would be likely to, inhibit—*

*(i) the free and frank provision of advice, or*

*(ii) the free and frank exchange of views for the purposes of deliberation, or*

*(c) would otherwise prejudice, or would be likely otherwise to prejudice, the effective conduct of public affairs.*

We have sought the views of our qualified person, who in our organisation is the Chief Executive, whose opinion is as follows:

In our day to day work, healthcare organisations believe they have sought advice from our Practitioner Performance Advice (Advice) service will be kept confidential, save for individual cases where the public interest for disclosure outweighs our duty of confidentiality. We have judged that releasing individual organisational information would prejudice the confidential nature of our dealings with healthcare organisations in respect of the provision of advice to healthcare organisations to effectively manage and resolve concerns raised about the practice of individual practitioners. We also believe it would erode the relationship between the Advice service and healthcare organisations and would in turn dissuade organisations from approaching us about future matters.

## **Public Interest Test**

The application of this exemption requires us to undertake a public interest test and the following matters have been taken into consideration as follows:

### *Public Interest considerations in disclosing the information*

There is an interest in being transparent about the healthcare organisations that seek advice from the Advice service. The Advice service is established to deliver services on behalf of the Secretary of State and there is a public interest in understanding how that is carried out.

### *Public interest considerations in favour of maintaining the exemption*

There is a strong public interest in ensuring the effective delivery of the Advice service who support the resolution of concerns raised about doctors, dentists and pharmacists. We have judged that releasing individual organisational information would prejudice the confidential nature of our dealings with healthcare organisations in respect of the provision of advice to healthcare organisations to effectively manage and resolve concerns raised about the practice of individual practitioners. We also believe it would erode the relationship between Advice and healthcare organisations and would in turn dissuade organisations from approaching us about future matters.

We consider that the information in the public domain including the numbers of the requests for advice have been made to the service (see p. 59 of the [Annual Report for FY17/18](#)) do provide

information which addresses the public interest but also maintains the integrity of the service and the duty of confidence owed to organisations and individuals referred to it.

We have also provided a regional breakdown to assist this request (set out earlier in this letter).

We also maintain that providing a breakdown of referrals by healthcare organisation does not in itself provide a reliable indicator of a specific healthcare organisation profile. Our service is not mandatory other than where there are some specific requirements under other disciplinary frameworks such as *Maintaining High Professional Standards in the modern NHS* (MHPS).

#### *Balance of Public Interest Test*

NHS Resolution acknowledges that there is an interest in the public knowing how the service operates and to have information in the public domain about referrals to the service. We believe this is met by the publication of figures in our annual report and the regional breakdown provided above.

On the balance of the Public Interest Test above, NHS Resolution therefore believes that the greater public interest is in withholding this information.

*2) Please advise if NCAS tracks the number of whistleblowers who are referred to NCAS (doctors who have made public interest disclosures before being referred to NCAS)*

Practitioner Performance Advice does not track information in this way.

*If so, please give the total number of doctors, since February 2015, who have been referred to NCAS after making public interest disclosures.*

This refers to our answer at 2 above.

#### **This concludes our response to your request.**

If you are not satisfied with the service that you have received in response to your information request, it is open to you to make a complaint and request a formal review of our decisions. If you choose to do this, you should write to [Tinku Mitra](#), Head of Corporate and Information Governance for NHS Resolution, within 28 days of your receipt of this reply. Reviews of decisions made in relation to information requests are carried out by a person who was not involved in the original decision-making about the request.

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner for a review of the decision. Generally, the Information Commissioner will not make a decision unless you have exhausted the local complaints procedure. The address of the Information Commissioner's Office is:

Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF