

Our Ref: 62813

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## Re: Freedom of Information Request

Please find below the response to your recent Freedom of Information request regarding Tier 3 and Tier 4 Weight Management Services within NHS Southport and Formby CCG.

Request/[Response](#):

1. a) Who is the provider in your CCG for Tier 3 Weight Management services (if this is not commissioned in your area please state)

[Liverpool University Hospitals NHS Foundation Trust](#)

- b) Please provide a contact email for this Tier 3 Weight Management service

[Not known](#)

2. In 2017/18 and in 2018/19 in your CCG area, how many patients have:
  - a) Received an assessment in your Tier 3 Weight Management service?
  - b) Received treatment in your Tier 3 Weight Management service?
  - c) Completed the Tier 3 weight management programme
  - d) Referred for Tier 4 assessment from the Tier 3 service (and average waiting time for Tier 4 assessment)
  - e) Received an assessment in the Tier 4 weight management service
  - f) Received bariatric surgery?

[NHS Southport and Formby CCG does not hold this information you may wish to refer your query to Liverpool University Hospitals NHS Foundation Trust – FOIRequests@liverpoolft.nhs.uk](#)

3. In 2017/18 and in 2018/19 in your CCG area, how many patients with T2DM (with BMI 35kg/m<sup>2</sup> and greater) have:
  - a) Received an expedited referral (ie direct to Tier 4 assessment without the need

to complete a Tier 3 weight management programme) for consideration of metabolic surgery

- b) Received an assessment in your Tier 3 Weight Management service?
- c) Received treatment in your Tier 3 Weight Management service?
- d) Completed the Tier 3 weight management programme
- e) Referred for Tier 4 assessment from the Tier 3 service (and average waiting time for tier 4 assessment)
- f) Received an assessment in the Tier 4 weight management service
- g) Received bariatric surgery?

NHS Southport and Formby CCG does not hold this information you may wish to refer your query to Liverpool University Hospitals NHS Foundation Trust – [FOIRequests@liverpoolft.nhs.uk](mailto:FOIRequests@liverpoolft.nhs.uk)

4. What are your inclusion and exclusion criteria (including BMI thresholds and co-morbidities) for your Tier 3 and Tier 4 Weight Management services?

Please see attached appendix 1

5. During 2017/2018 and 2018/2019, did you have an upper limit on the number of patients for whom you commissioned:
- a) tier 3 weight management services, and;
  - b) tier 4 weight management services

No

6. What outcome measures or key performance indicators do you use for Tier 3 and Tier 4 and what results (numbers and percentages) for these have you seen in 2017/18 and 2018/19?

I can confirm that NHS Southport and Formby CCG holds information that you have asked for, but in this case we will not be providing it to you as it is exempt from disclosure.

We are not obliged to provide information that has been provided in confidence to the CCG (section 41(b) of the Act). The terms of this exemption in the Freedom of Information Act mean that we do not have to consider whether or not it would be in the public interest for you to have the information.

You can find out more about Section 41 by reading the extract from the Act and some guidance points we consider when applying this exemption, attached at the end of this letter.

7. Please can you provide a copy of your policy on the commissioning of Tier 3 weight management and Tier 4 Bariatric Surgery

Please see attached appendix 1

## **EXPLANATION OF FOIA - SECTION 41 – INFORMATION PROVIDED IN CONFIDENCE**

We have provided below additional information about Section 41 of the Freedom of Information Act. We have included some extracts from the legislation, as well as some of the guidance we use when applying it. We hope you find this information useful.

### **The legislation**

#### **Section 1: Right of Access to information held by public authorities**

- (1) Any person making a request for information to a public authority is entitled—
- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
  - (b) if that is the case, to have that information communicated to him.

#### **Section 41: Information provided in confidence.**

- (1) Information is exempt information if—
- (a) it was obtained by the public authority from any other person (including another public authority), and
  - (b) the disclosure of the information to the public (otherwise than under this Act) by the public authority holding it would constitute a breach of confidence actionable by that or any other person.
- (2) The duty to confirm or deny does not arise if, or to the extent that, the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) constitute an actionable breach of confidence.

### **Guidance**

Section 41 provides an exemption to the right of access under the Freedom of Information Act if release would be an actionable breach of confidence.

This exemption qualifies the right of access under Freedom of Information Act by reference to the common law action for 'breach of confidence'. According to that action, if a person who holds information is under a duty to keep that information confidential (a 'duty of confidence'), there will be a 'breach of confidence' if that person makes an unauthorised disclosure of the information.

The concept of 'breach of confidence' has its roots in the notion that a person who agrees to keep information confidential should be obliged to respect that confidence. However, the law has now extended beyond this: the courts recognise that a duty of confidence may also arise due to the confidential nature of the information itself or the circumstances in which it was obtained.

The concept of 'breach of confidence' recognises that unauthorised disclosure of confidential information may cause substantial harm. For example, the disclosure of a person's medical records could result in a serious invasion of that person's privacy, or the disclosure of commercially sensitive information could result in substantial financial loss. The law protects these interests by requiring the information to be kept confidential: if information is disclosed in breach of a duty of confidence, the courts may award damages (or another remedy) to the person whose interests were protected by the duty.