

Some of the information requested has been withheld. The following paragraphs explain what that information is and what exemptions apply.

### **Section 38(1) – Health and Safety**

In applying this exemption we have balanced the public interest in withholding the information against the public interest in disclosing the information. Disclosing dispensing locations of controlled drugs could be used by organised criminals to target those dispensers. Therefore, for drugs which are flagged as controlled drugs, the dispenser information is redacted from the data. Annex A at the end of this letter sets out the exemption in full, as well as the factors considered when deciding that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

Annex A at the end of this letter set out this exemption in full.

### **Section 40(2)**

Please be aware that I have decided not to release details of where the total number of items falls below five. This is because the patients could be identified, when combined with other information that may be in the public domain or reasonably available.

This information falls under the exemption in section 40 subsections 2 and 3A (a) of the Freedom of Information Act. This is because it would breach the first data protection principle as:

- a) it is not fair to disclose patients personal details to the world and is likely to cause damage or distress.
- b) these details are not of sufficient interest to the public to warrant an intrusion into the privacy of the patients.

Annex B at the end of this letter set out this exemption in full.

### **The Remaining Information**

A copy of the information you have requested is attached

#### **Time Period**

Prescribing data from November 2016 to October 2018, reported by month.

#### **Prescribing Data**

Data limited to prescribing from England, reported at CCG level.

#### **Dispensing Data**

Data limited to dispensing from the dispenser codes quoted in your request.

Based on dispensed prescription items that were processed by the NHS BSA, not including items not dispensed, disallowed and returned back.

Excluding items prescribed but not presented for dispensing or not submitted to NHS Prescription Services by the dispenser.

#### Reported Figures

The following fields have been included in the dataset:

- Year Month - The year month for which the prescription was submitted to the NHSBSA by the dispenser for reimbursement.
- CCG Code - The code of the CCG that prescribed.
- CCG Name - The name of the CCG that prescribed.
- Dispenser Code - The code of the dispenser that dispensed.
- Dispenser Name - The name of the dispenser that dispensed
- Dispenser Address 1 - The first line of the address that dispensed.
- Dispenser Address 2 - The second line of the address that dispensed.
- Dispenser Address 3 - The third line of the address that dispensed.
- Dispenser Address 4 - The fourth line of the address that dispensed.
- Dispenser Post Code - The post code of the address that dispensed.
- BNF Product Level Code - The product level code of the items dispensed.
- BNF Product Level Description - The product level code of the items dispensed.
- Item Count - The total number of items dispensed.

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#### Annex A

##### Section 38 – Health and Safety

- (1) Information is exempt information if its disclosure under this Act, would, or would likely to-
  - (a) endanger the physical or mental health of any individual, or.
  - (b) Endanger the safety of any individual

(2) The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice the interests mentioned in subsection (1).

| <b>Factors for disclosure</b>   | <b>Factors for withholding</b>   |
|---|--|
| <ul style="list-style-type: none"><li>• Public accountability</li></ul> | <ul style="list-style-type: none"><li>• Disclosure would mean staff will be at a higher risk of physical attack from persons seeking to obtain controlled drugs by force or intimidation.</li><li>• Patient safety may also be put at risk by the above.</li></ul> |

**Reasons why public interest favours withholding information**

- I consider that the public accountability in releasing this information is outweighed by the potential detrimental affect on the physical and mental health of pharmacy staff and their patients.

## Annex B

### Section 40 - Personal information

(1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) Any information to which a request for information relates is also exempt information if -

- a. it constitutes personal data which does not fall within subsection (1), and
- b. the first, second or third condition below is satisfied.

(3A)

The first condition is that the disclosure of the information to a member of the public otherwise than under this Act—

- (a) would contravene any of the data protection principles, or
- (b) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded.

(3B) The second condition is that the disclosure of the information to a member of the public otherwise than under this Act would contravene Article 21 of the GDPR (general processing: right to object to processing).

(4A) The third condition is that—

- (a) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for access to personal data, the information would be withheld in reliance on provision made by or under section 15, 16 or 26 of, or Schedule 2, 3 or 4 to, the Data Protection Act 2018, or
- (b) on a request under section 45(1)(b) of that Act (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section.

(5A) The duty to confirm or deny does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1).

(5B) The duty to confirm or deny does not arise in relation to other information if or to the extent that any of the following applies—

(a) giving a member of the public the confirmation or denial that would have to be given to comply with section 1(1)(a)—

(i) would (apart from this Act) contravene any of the data protection principles, or

(ii) would do so if the exemptions in section 24(1) of the Data Protection Act 2018 (manual unstructured data held by public authorities) were disregarded;

(b) giving a member of the public the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene Article 21 of the GDPR (general processing: right to object to processing);

(c) on a request under Article 15(1) of the GDPR (general processing: right of access by the data subject) for confirmation of whether personal data is being processed, the information would be withheld in reliance on a provision listed in subsection (4A)(a);

(d) on a request under section 45(1)(a) of the Data Protection Act 2018 (law enforcement processing: right of access by the data subject), the information would be withheld in reliance on subsection (4) of that section

(6) In this section—

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“the data protection principles” means the principles set out in—

(a) Article 5(1) of the GDPR, and

(b) section 34(1) of the Data Protection Act 2018;

“data subject” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act);

“the GDPR”, “personal data”, “processing” and references to a provision of Chapter 2 of Part 2 of the Data Protection Act 2018 have the same meaning as in Parts 5 to 7 of that Act (see section 3(2), (4), (10), (11) and (14) of that Act).

(7) In determining for the purposes of this section whether the lawfulness principle in Article 5(1)(a) of the GDPR would be contravened by the disclosure of information, Article 6(1) of the GDPR (lawfulness) is to be read as if the second sub-paragraph (disapplying the legitimate interests gateway in relation to public authorities) were omitted.”