

Request for information under the Freedom of Information Act – 2021.904
Released – 3 August 2021

Thank you for your email dated 20 July 2021 requesting information regarding Windows 7 and XP instances.

Please find detailed below a summary of your original request together with our response.

Original request

1. How many instances of the Microsoft Windows 7 Operating System are currently in operation across your entire network? How many devices such as kiosks, lap tops etc are still running Windows 7?

2. How many instances of the Microsoft Windows XP Operating System are currently in operation across your entire network ? How many devices such as kiosks, lap tops etc are still running Windows XP?

The Kent Community Health NHS Foundation Trust can neither confirm nor deny whether the information requested is held under section 31(3) Prevention and Detection of Crime of the Freedom of Information Act (FOIA). The full wording of section 31 can be found here: <http://www.legislation.gov.uk/ukpga/2000/36/section/31>

S31(3) of the FOIA allows a public authority to neither confirm nor deny whether it holds information where such confirmation would be likely to prejudice any of the matters outlined in section 31(1). This includes information, the disclosure of which, would or would be likely to prejudice the prevention or detection of crime.

As section 31(3) is a qualified exemption, it is subject to a public interest test for determining whether the public interest lies in confirming whether the information is held or not.

Factors in favour of confirming or denying the information is held

The Trust considers that to confirm or deny whether the requested information is held would indicate the prevalence of cyber-attacks against the Trust's ICT infrastructure and would reveal details about the Trust's information security systems.

The Trust recognises that answering the request would promote openness and transparency with regards to the Trust's ICT security.

Factors in favour of neither confirming nor denying the information is held

Cyber-attacks, which may amount to criminal offences for example under the Computer Misuse Act 1990 or the Data Protection Act 2018, are rated as a Tier 1 threat by the UK Government.

The Trust, like any organisation, may be subject to cyber-attacks and, since it holds large amounts of sensitive, personal and confidential information, maintaining the security of this information is extremely important.

Chairman John Goulston Chief Executive Paul Bentley

Trust HQ The Oast, Unit D, Hermitage Court, Hermitage Lane, Barming, near Maidstone, Kent ME16 9NT

In this context, the Trust considers that confirming or denying whether the requested information is held would provide information about the Trust's information security systems and its resilience to cyber-attacks. There is a very strong public interest in preventing the Trust's information systems from being subject to cyber-attacks. Confirming or denying the type of information requested would be likely to prejudice the prevention of cybercrime, and this is not in the public interest.

If the Trust were either to confirm or deny the existence of the requested information, the disclosure would be likely to prejudice, the effective conduct of public affairs for the Trust, the NHS or any other government department(s) and as such conflicts with Section 36(2c) of the FOIA. The full wording of section 36 can be found here:

<https://www.legislation.gov.uk/ukpga/2000/36/section/36>

Balancing the public interest factors

The Trust has considered that if it were to confirm or deny whether it holds the requested information, it would enable potential cyber attackers to ascertain how and to what extent the Trust is able to detect and deal with ICT security attacks. The Trust's position is that complying with the duty to confirm or deny whether the information is held would be likely to prejudice the prevention or detection of crime, as the information would assist those who want to attack the Trust's ICT systems.

Disclosure of the information would assist a hacker in gaining valuable information as to the nature of the Trust's systems, defences and possible vulnerabilities. This information would enter the public domain and set a precedent for other similar requests which would, in principle, result in the Trust being a position where it would be more difficult to refuse information in similar requests. To confirm or deny whether the information is held is likely to enable hackers to obtain information in mosaic form combined with other information to enable hackers to gain greater insight than they would ordinarily have, which would facilitate the commissioning of crime such as hacking itself and also fraud. This would impact on the Trust's operations including its front line services. The prejudice in complying with section 1(1)(a) FOIA is real and significant as to confirm or deny would allow valuable insight into the perceived strengths and weaknesses of the Trust's ICT systems.

3. Who is the officer responsible for maintaining and delivering legacy applications to all your users?

It is Trust policy to not release details of staff below Executive Director Level as this constitutes personal information which is exempt under Section 40(2) in conjunction with Section 40(3a)(a) of the Freedom of Information Act 2000 which relates to 'Personal Information'.

An excerpt of the relevant Freedom of Information legislation can be found below:

Section 40 – Personal information

(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) either 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.

We can confirm that the Executive Director with overall responsibility for IT is Gordon Flack - Director of Finance and Deputy CEO, Gordon.Flack@nhs.net