

Dear Requestor

RE: Freedom of Information Request

With reference to your request for information I can confirm in accordance with Section 1 (1) of the Freedom of Information Act 2000 that we do hold the information that you have requested. A response to each part of your request is below.

Please note, as of 1st April 2020 the following Clinical Commissioning Groups (CCGs), NHS Mansfield & Ashfield CCG, NHS Newark & Sherwood CCG, NHS Nottingham City CCG, NHS Nottingham North & East CCG, NHS Nottingham West CCG and NHS Rushcliffe CCG, merged to become NHS Nottingham and Nottinghamshire CCG. More information around the new NHS Nottingham and Nottinghamshire CCG can be found on our website - <https://nottscg.nhs.uk/about-us/our-ccg/>

In the request you asked:

1. *For the period 1st of April 2019 to 31st of March 2020, please provide the names of all independent sector providers that have provided cataract and/or YAG capsulotomy procedures to you.*
2. *Please provide the total number of procedures (per eye) completed by independent providers (broken down by the applicable CCSD code) for the following surgical procedures between 1 April 2019 and 31 March 2020:*
 - a. *Cataract with implantation of a spherical (non toric) Intraocular Lens;*
 - b. *Cataract with implantation of a toric intraocular lens; and*
 - c. *YAG capsulotomy.*
3. *Please provide the number of procedures (per eye) completed by Optegra (broken down by the applicable CCSD code) for the following surgical procedures between 1 April 2019 and 31 March 2020:*
 - a. *Cataract with implantation of a spherical (non toric) Intraocular Lens;*
 - b. *Cataract with implantation of a toric intraocular lens; and*
 - c. *YAG capsulotomy.*
4. *Please provide the number of procedures (per eye) completed by Spamedica for the following surgical procedures (broken down by the applicable CCSD code) between 1 April 2019 and 31 March 2020:*
 - a. *Cataract with implantation of a spherical (non toric) Intraocular Lens;*
 - b. *Cataract with implantation of a toric intraocular lens; and*
 - c. *YAG capsulotomy.*
5. *Please provide the number of procedures (per eye) completed by Newmedica for the following surgical procedures (broken down by the applicable CCSD code) between 1 April 2019 and 31 March 2020:*
 - a. *Cataract with implantation of a spherical (non toric) Intraocular Lens;*
 - b. *Cataract with implantation of a toric intraocular lens; and*
 - c. *YAG capsulotomy.*
6. *Please provide the number of procedures (per eye) completed by Anglia Community Eye Service (ACES) for the following surgical procedures (broken down by the applicable CCSD code) between 1 April 2019 and 31 March 2020:*
 - a. *Cataract with implantation of a spherical (non toric) Intraocular Lens;*

- b. *Cataract with implantation of a toric intraocular lens; and*
 - c. *YAG capsulotomy.*
7. *Please provide the number of procedures (per eye) completed by Optical Express for the following surgical procedures (broken down by the applicable CCSD code) between 1 April 2019 and 31 March 2020:*
- a. *Cataract with implantation of a spherical (non toric) Intraocular Lens;*
 - b. *Cataract with implantation of a toric intraocular lens; and*
 - c. *YAG capsulotomy.*
8. *Please provide the number of procedures (per eye) completed by any independent sector provider other than those listed above (Optegra, Spamedica, Newmedica, ACES & Optical Express) for the following surgical procedures (broken down by the applicable CCSD code) between 1 April 2019 and 31 March 2020:*
- a. *Cataract with implantation of a spherical (non toric) Intraocular Lens;*
 - b. *Cataract with implantation of a toric intraocular lens; and*
 - c. *YAG capsulotomy.*

I can confirm that we do hold this information. However, NHS Nottingham and Nottinghamshire CCG has considered this request and has decided to withhold this requested information pursuant to the exemption in Section 43(2) of the Freedom of Information Act 2000 (FOIA).

Section 43(2) relates to information that is exempt from disclosure that “would or would be likely to prejudice the commercial interests of any person (including the public authority holding it)”.

The information requested relates to details of commercial arrangements the CCG has in place with independent providers. NHS Nottingham and Nottinghamshire CCG has received a similar request, within the same response time period, for information around the financial value of these contracts and services that when combined with this request, is considered to be harmful. In addition in complying with this request, the CCG would be in a position that it would likely need to respond to the second request. This is described as the mosaic and precedent effect.

On this basis, NHS Nottingham and Nottinghamshire CCG consider that, at this time, the commercial interests of the CCG, third parties and overall the NHS would or would likely be prejudiced.

Public Interest Test

Section 43(2) is a qualified exemption and, therefore, the CCG is required to apply the public interest test.

NHS Nottingham and Nottinghamshire CCG recognise that the disclosure of the information sought in relation to cataract and/or YAG capsulotomy service number of procedures, along with information sought around contract values in a separate FOI received during the same response time period, would promote accountability and transparency in the use of public funds by the CCG and by the NHS in general and also with decision making by the CCG and their transactions with third parties.

Conversely to the factors demonstrated above in favour of disclosure, NHS Nottingham and Nottinghamshire CCG and third party suppliers could be disadvantaged should the information sought in relation to cataract and/or YAG capsulotomy activity be made available. By cross-referencing the activity data in the requested FOI with the contract value activity data that has been requested separately, any competing provider would be able to fairly accurately calculate the price that the CCG pay per procedure. Suppliers compete with one another in a competitive environment and to provide data to this level of detail would lead to loss of confidence by suppliers and customers and could cause significant harm to the CCG and suppliers.

The disclosure could also adversely impact on any on-going or future procurement processes for the reasons outlined above. Any disclosure by the CCG could, in future, discourage the provision of commercially sensitive information necessary to respond properly to the CCG’s Invitation To Tender, and would be likely to affect and undermine the CCG’s bargaining position in any future procurement process or negotiations. Ultimately, civil action could be taken against the CCG should information be disclosed that adversely affects the commercial interests of current and/or future suppliers.



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As a result, it is our opinion that this sufficiently demonstrates the prejudice which could be caused through disclosure.

Balance Test

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. It is recognised that there is a general public interest in the CCG being open and transparent. However, it is not believed that this public interest is served in disclosure for damage that would be caused as outlined above.

Therefore, the CCG consider that releasing this information would not be in the public interest, as the public interest does not outweigh the prejudice as set out above.

If you are unhappy with the way in which your request has been handled, NHS Nottingham and Nottinghamshire Clinical Commissioning Group have an internal review procedure through which you can raise any concerns you might have. Further details of this procedure can be obtained by contacting Lucy Branson, Associate Director of Governance via lucy.branson@nhs.net or by writing to NHS Nottingham and Nottinghamshire CCG, 1 Standard Court, Park Row, Nottingham, NG1 6GN.

If you remain dissatisfied with the outcome of the internal review, you can apply to the Information Commissioner's Office, who will consider whether the organisation has complied with its obligations under the Act, and can require the organisation to remedy any problems. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by NHS Nottingham and Nottinghamshire Clinical Commissioning Group formerly known as NHS Mansfield and Ashfield Clinical Commissioning Group, NHS Newark and Sherwood Clinical Commissioning Group, NHS Rushcliffe Clinical Commissioning Group, NHS Nottingham West Clinical Commissioning Group, NHS Nottingham City Clinical Commissioning Group and Nottingham North and East Clinical Commissioning Group. You can find out more about how to do this, and about the Act in general, on the Information Commissioner's Office website at: <https://ico.org.uk/for-the-public/>

Complaints to the Information Commissioner's Office should be sent to: FOI/EIR Complaints Resolution, Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF
Telephone 0303 123 1113 or report a concern: <https://ico.org.uk/concerns/>

Yours sincerely

Freedom of Information Officer on behalf of *NHS Nottingham and Nottinghamshire Clinical Commissioning Group formerly known as NHS Rushcliffe Clinical Commissioning Group, NHS Nottingham West Clinical Commissioning Group, NHS Nottingham City Clinical Commissioning Group, NHS Nottingham North and East Clinical Commissioning Group, NHS Mansfield and Ashfield Clinical Commissioning Group and NHS Newark and Sherwood Clinical Commissioning Group.*

notts.foi@nhs.net

All information we have provided is subject to the provisions of the Re-use of Public Sector Information Regulations 2015. Accordingly, if the information has been made available for re-use under the [Open Government Licence](#) (OGL) a request to re-use is not required, but the license conditions must be met. You must not re-use any previously unreleased information without having the consent of NHS Nottingham and Nottinghamshire Clinical Commissioning Group. Should you wish to re-use previously unreleased information then you must make your request in writing (email will suffice) to the FOI Lead via notts.foi@nhs.net. All requests for re-use will be responded to within 20 working days of receipt.

