

08/06/2023

NN-ICB/23/280

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.

In the request you asked:

Please send the following information relating to all contracts active during Financial Year 2023/24 procured under either:

1. Common Procurement Vocabulary (CPV) codes 85000000 (Health and social work services) and 98000000 (Other community, social and personal services), and/or
2. ProClass Classification codes ranging from 32100 to 40999 (Level 1 Social Community Care)

I require for each contract:

- The name of the contract
- A brief description of the contract
- The start date of the contract
- The end date of the contract including any extension opportunity
- The awarded contract provider
- The value of the contract per annum
- Any contract breaches during the course of the current contract

The ICB's contract register, as it stands on the 01 April 2024 is available on our website at the following link - <https://notts.icb.nhs.uk/about-us/what-we-spend-and-how-we-spend-it/procurement/>

However, please note that is a dynamic document which is continuously reviewed to ensure it is accurate and reflective of the newly established statutory body.

Please note the register contains the following information:

- The name of the contract

- A brief description of the contract
- The start date of the contract
- The end date of the contract including any extension opportunity
- The awarded contract provider

It does not, at present, include:

- The value of the contract per annum – Please see the below Section 43 (2) exemption.
- Any contract breaches during the course of the current contract – The ICB currently has no formal breach or performance notices active with any provider.

However, we do publish all ICB spend greater than 25k (including contracts) and this is published on our website at the following link - <https://notts.icb.nhs.uk/about-us/what-we-spend-and-how-we-spend-it/>

### **Section 43 (2)**

the ICB are unable to share this information as it is deemed commercially sensitive under Section 43 (2) of the Act.

*Section 43 of the Act states that:*

*(1) Information is exempt information if it constitutes a trade secret.*

*(2) Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).*

*(3) 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 (2).*

*Section 43 is a qualified exemption and is subject to a **public interest test**. Even where you are satisfied that the information requested is a trade secret or that its release would prejudice someone's commercial interests, you can only refuse to provide the information if you believe that the public interest in withholding the information outweighs the public interest in disclosing it.*

*A **public interest test** was undertaken on the 5 June 2023 in response to your request made under the Freedom of Information Act 2000.*

*The Information Commissioner's Office (ICO) sets out public interest factors in favour of and against disclosure. Some of the factors in favour were as follows:*

- *Ensuring that the public authority can be held accountable for its decisions, particularly as to how it spends public money.*
- *Ensuring that a tender process is open and transparent.*
- *Providing insight into the nature of a procurement process and winning bids, so that other companies are encouraged to take part in the process and improve future bids.*

*Public interest factors against disclosure (and in favour of the maintenance of an exemption) included:*

- *There is an inherent public interest in the maintenance of the exemption, and of upholding private companies' expectations that commercially confidential information will be protected from disclosure when they engage in public authority tenders.*
- *Avoiding the discouragement of prospective tenderers from tendering for public sector contracts, for fear of disclosure of their commercially sensitive information to competitors,*

*and that this may adversely affect both the quality of tenders for public sector contracts, and public authorities' ability to negotiate them effectively.*

- *Maintaining a competitive market and driving competition as this benefits public authorities and consumers, and which could be threatened by disclosure of companies' commercial information.*

*On balance of the factors considered above, along with relevant case law, we considered that the ICB would be entitled to withhold information on annual contract values and that this would be not be superseded by public interest considerations.*

3. I specifically wish to ensure all contracts are included that the Local Authority Commissions for:

- Hospital Discharge services
- Adult and Young Carers Information Advice Guidance services
- Carers Respite Break services
- Carers Grants provision

The contracts register (link provided above provides a list of the contracts that the ICB commission, a request for information will need to be made to the Local Authorities for the services they have contracts for. Links to pages on their website which provide information on how to make a Freedom of Information request are given below:

Nottinghamshire County Council - <https://www.nottinghamshire.gov.uk/council-and-democracy/freedom-of-information/submit>

Nottingham City Council - <https://www.nottinghamcity.gov.uk/your-council/about-the-council/access-to-information/information-request>

4. If any of these are not commissioned by the ICB, can you explain how this provision(s) is supported in the local area?

Nottingham and Nottinghamshire ICB do not hold this information, please contact:

Nottinghamshire County Council - <https://www.nottinghamshire.gov.uk/council-and-democracy/freedom-of-information/submit>

Nottingham City Council - <https://www.nottinghamcity.gov.uk/your-council/about-the-council/access-to-information/information-request>

5. Which tendering portal the ICB uses to publish contract opportunities, and

The ICB uses the following website to publish all tender opportunities.

<https://www.contractsfinder.service.gov.uk/Search>

<https://www.find-tender.service.gov.uk/Search>

6. The web address for the ICB's public contract register

<https://notts.icb.nhs.uk/wp-content/uploads/sites/2/2022/04/NNN-ICB-Contracts-Liabilities-Database-31.01.2023-1.pdf>

If you are unhappy with the way in which your request has been handled, NHS Nottingham and Nottinghamshire Integrated Care Board (ICB) 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](mailto:lucy.branson@nhs.net) or by writing to FOI Team at NHS Nottingham and Nottinghamshire ICB, Sir John Robinson House, Sir John Robinson Way, Arnold, Daybrook, Nottingham, NG5 6DA.

If you remain dissatisfied with the outcome of the internal review, you can apply to the Information Commissioner's Office (ICO), 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 ICB. 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 via <https://ico.org.uk/concerns/>

Yours sincerely

Freedom of Information (FOI) Officer on behalf of *NHS Nottingham and Nottinghamshire Integrated Care Board*

[notts.foi@nhs.net](mailto: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 Integrated Care Board. 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](mailto:notts.foi@nhs.net). All requests for re-use will be responded to within 20 working days of receipt.*