

13/09/2023

NN-ICB/23/426

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 can you provide the product names with start and finish dates of all your agreed primary care rebates

Please see below table.

Rebate Scheme	Medicines included in the rebate scheme	Company	Start date of current contract	End date of current contract
Quetiapine (Biquelle XL)	Biquelle® XL (quetiapine prolonged release tablets) 50mg, 150mg, 200mg, 300mg, 400mg and 600mg.	Aspire pharma	01/07/2022	30/06/2024
Methadone (Physeptone)	Physeptone® (Methadone 1mg/ml);	Ethypharm	01/07/2022	30/06/2024
	Physeptone® (Methadone SF 1mg/ml).			
Clenil	Clenil® Modulite® (CFC-free Beclometasone Dipropionate Inhaler) 50mcg, 100mcg, 200mcg and 250mcg.	Chiesi	01/07/2022	30/06/2024
Pipexus	Pipexus® (pramipexole prolonged release tables) 0.26mg, 0.52mg, 1.05mg, 1.57mg, 2.10mg, 2.62g and 3.15mg;	Ethypharm	01/07/2022	30/06/2024
Zaluron	Zaluron® XL (Quetiapine XL) tablets 50mg, 150mg, 200mg, 300mg and 400mg	Fontus Health	01/04/2020	31/03/2025
Oxycodone (Longtec)	Longtec® (Oxycodone SR) 5mg, 10mg, 15mg, 20mg, 30mg, 40mg 60mg, 80mg and 120mg	Qdem pharmaceuticals	01/04/2020	No end date

Dr Reddys Branded Generics Rebate	Alzest® patches (rivastigmine) 4.6mg, 9.5mg and 13.3mg;	Dr Reddy's	01/07/2022	Currently under review
	Valios® orodispersible tablets (memantine) 10mg and 20mg;			
	Panitaz® patches (buprenorphine) 5mcg, 10mcg and 20mcg;			
	Bupeaze® patches (buprenorphine) 35mcg, 52.5mcg and 70mcg			
	Atomaid® capsules (Atomoxetine) 10mg, 18mg, 25mg, 40mg, 60mg, 80mg and 100mg			
Fostair NEXThaler dry powder inhaler	Fostair NEXThaler® 100/6 (Beclometasone dipropionate/ formoterol fumarate 100/6)	Chiesi	01/07/2022	30/06/2024
	Fostair NEXThaler® 200/6 (Beclometasone dipropionate/ formoterol fumarate 200/6)			
Fostair pressurised metered dose inhaler (MDI)	Fostair pressurised MDI® 100/6 (Beclometasone dipropionate/ formoterol fumarate 100/6)	Chiesi	01/07/2022	30/06/2024
	Fostair pressurised MDI® 200/6 (Beclometasone dipropionate/ formoterol fumarate 200/6)			
Freestyle Libre®	Freestyle Libre® sensor	Abbott	01/10/2021	30/06/2024
	Freestyle Libre 2® sensor			
National procurement for direct acting oral anticoagulants	Eliquis tablets (apixaban) 2.5mg, 5mg	Bristol-Myers Squibb	As per national contract	
	Lixiana tablets (edoxaban) 15mg, 30mg, 60mg	Daiichi Sankyo		
	Xarelto tablets (rivaroxaban) 10mg, 15mg, 20mg	Bayer PLC		
Hylo Night	Hylo Night eye ointment preservative free	Scope Ophthalmics Ltd	01/10/2022	30/09/2025
Xaggitin XL	Xaggitin XL (Prolonged release Methylphenidate) 18mg, 27mg, 36mg, 54mg tablets	Ethypharm	01/02/2023	31/01/2025

Please can you advise the level of discount for each agreement and if any of your agreed rebates are conditional on achieving increased volumes/ market shares?

Please see below exemption.

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 12 September 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 the level of discount for each agreement and if any of the agreed

rebates are conditional on achieving increased volumes/ market shares and that this would not be superseded by public interest considerations.

I would also like to request the process of how you review and evaluate the rebates presented to you and whether the ICB indicates a preference of a rebated product over a comparable non-rebated product to clinicians?

This information is publicly available in the rebate policy – link below. The only exception to not taking rebates into account when making clinical decisions is edoxaban where we have a specific position statement - https://www.nottsapc.nhs.uk/media/l2ypqt4d/doac_position-statement.pdf

Please can you also provide a copy of your most up to date primary care rebate policy.

This information is publicly available on the ICB website - <https://notts.icb.nhs.uk/wp-content/uploads/sites/2/2022/04/Nottinghamshire-Policy-for-Approving-Primary-Care-Prescribing-Rebate-Schemes-v2.0.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 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

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. All requests for re-use will be responded to within 20 working days of receipt.