

24/07/2025

NN-ICB/25-1094

Dear Requestor

Re: Freedom of Information Internal Review (ref: 1094)

Thank you for your request for an internal review, submitted on 21 June 2025, regarding two Freedom of Information (FOI) responses issued by NHS Nottingham and Nottinghamshire Integrated Care Board (ICB) concerning contractual arrangements with Liaison Group for Continuing Healthcare (CHC)-related services.

The first FOI request was received on 20 February 2025, and a response was issued on 25 April 2025. The second FOI request was received on 5 May 2025, with a response issued on 19 June 2025. These two responses contained conflicting information regarding the nature of the contractual arrangements with Liaison Group, which is the subject of this internal review.

Following a thorough review of the relevant documentation and correspondence, we have concluded that the two FOI responses contained conflicting information. **As a result, the outcome of this internal review is that your complaint is partially upheld.**

We have reviewed each of the points raised in your internal review request and now provide a consolidated response, including corrections to our response, on the 5 May 2025, where earlier information was incomplete or inaccurate.

Clarification of the direct conflict

1. The FOI response issued following your request received on 20 March 2025 correctly stated that the contract with Liaison Group was a 'shared benefit' (gainshare) agreement and included CHC-related services. This information is supported by a Liaison Programme Closure Report, which confirms that the contract covered a range of review types, including fully funded CHC reviews.
2. In contrast, the FOI response issued following your request received on 5 May 2025 incorrectly stated that the ICB had not entered into any gainshare or shared benefit arrangements for CHC-related outsourced services. This statement was based on incomplete information and did not reflect the full scope of the contract.

Provision of precise and consistent information

3. We confirm that NHS Nottingham and Nottinghamshire ICB has had contractual arrangements that included shared benefit/gainshare elements for CHC-related outsourced services. Specifically, the contract with Liaison Group, which ran from 13 February 2023 to 10 July 2024, included CHC reviews, Decision Support Tools (DSTs), Joint Funded reviews and one-to-one reviews.
4. The contract was structured as a 'shared benefit' agreement, whereby financial savings achieved through the review process were shared between the provider and the ICB. This arrangement meets the definition of a gainshare model.

Explanation for the discrepancy

5. The discrepancy between the two FOI responses arose due to a lack of access to complete programme documentation at the time the second response was prepared. The responder to the May 2025 request was only able to identify Liaison's involvement in joint-funded reviews, which are commissioned by Local Authority partners and not classified as CHC. As a result, the responder concluded, incorrectly, that no CHC-related gainshare arrangements existed.
6. Following your internal review request, we located the Liaison Programme Closure Report, which confirmed that the contract did include CHC-related services under a shared benefit model. We acknowledge that the earlier omission was unintentional but nonetheless resulted in an inaccurate response.

Updated response to FOI published (5 May 2025), recognising our original response was incorrect

7. *As such arrangements existed, for what specific types of CHC-related outsourced services is a 'shared benefit' or 'gainshare' approach used? As per paragraph 3 above, these were used for services relating to CHC reviews, Decision Support Tools (DSPTs), Joint Funded reviews and one-to-one reviews.*
8. *What are the specific terms and conditions that define how the 'shared benefits' or 'gains' are calculated and distributed between the NHS body and the private service provider in these contracts? We can confirm that our organisation holds information relevant to your request. The calculation and distribution of shared benefits or gains in relation to the contract in question are governed by locally agreed terms between our organisation and the private service provider.*

However, we are withholding this specific information under Section 43(2) of the Freedom of Information Act 2000, which exempts information if its disclosure would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it). In this case, disclosure of the detailed financial mechanism and gain-share terms would be likely to prejudice the commercial interests of both the

provider and our organisation by undermining future negotiations or revealing commercially sensitive pricing strategies.

Public Interest Test

As Section 43(2) is a qualified exemption, we have conducted a Public Interest Test in line with the requirements of the FOIA and guidance from the Information Commissioner's Office.

Public Interest in disclosure:	Public Interest in maintaining the exemption:
Promoting transparency and accountability in the use of public funds.	Protecting the commercial confidentiality of locally negotiated terms, which, if disclosed, could damage the provider's or NHS body's commercial interests.
Enabling public understanding of how gain-share arrangements operate in the NHS.	Avoiding harm to the NHS's ability to negotiate competitive terms in future contracts.
Supporting scrutiny of public-private sector collaboration.	Preserving trust and cooperation with private sector partners, which is essential for service delivery and innovation.

While we acknowledge the general public interest in transparency, on balance, we have concluded that the public interest in maintaining the exemption outweighs the interest in disclosure in this case. We are, therefore, unable to release the specific contractual terms and calculations relating to shared gains.

9. *Please provide copies of any relevant contract clauses, framework documentation, or internal guidance that outlines or governs the use of a 'shared benefit' or 'gainshare' approach in contracts with private companies for NHS CHC services. Please find attached the relevant extract which outlines the approach agreed (i.e. invoice specifics) with Liaison Group.*

The extract outlines the invoicing arrangements between the ICB and Liaison Care. It defines how invoices are raised based on the outcomes of Continuing Healthcare reviews, including changes in eligibility or funding arrangements. The appendix sets out the timing, duration, and calculation methods for invoicing, ensuring a consistent and transparent approach to financial reconciliation under the contract.

We regret the confusion caused by this inconsistency and appreciate your diligence in bringing it to our attention. We are reviewing our internal FOI handling procedures to ensure that future responses are informed by a comprehensive review of all relevant documentation and that appropriate cross-checks are in place for complex or multi-faceted requests.

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

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