

Document 7 – FOI Declaration

Freedom of Information Act 2000 deems Commercial interests under Part II Section 40 and Section 43 as

Part II Section 40:

(1) Any information to which a request for information relates is exempt information if it constitutes personal data of which the applicant is the data subject.

(2) Any information to which a request for information relates is also exempt information if—

- (a) it constitutes personal data which do not fall within subsection (1), and
- (b) either the first or the second condition below is satisfied.

(3) The first condition is—

(a) in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under this Act would contravene—

- (i) any of the data protection principles, or
- (ii) section 10 of that Act (right to prevent processing likely to cause damage or distress), and

(b) in any other case, that the disclosure of the information to a member of the public otherwise than under this Act would contravene any of the data protection principles if the exemptions in section 33A(1) of the Data Protection Act 1998 (which relate to manual data held by public authorities) were disregarded.

(4) The second condition is that by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(c) of that Act (data subject’s right of access to personal data).

(5) The duty to confirm or deny—

- (a) does not arise in relation to information which is (or if it were held by the public authority would be) exempt information by virtue of subsection (1), and
- (b) does not arise in relation to other information if or to the extent that either—

- (i) the giving to a member of the public of the confirmation or denial that would have to be given to comply with section 1(1)(a) would (apart from this Act) contravene any of the data protection principles or section 10 of the Data Protection Act 1998 or would do so if the exemptions in section 33A(1) of that Act were disregarded, or
- (ii) by virtue of any provision of Part IV of the Data Protection Act 1998 the information is exempt from section 7(1)(a) of that Act (data subject's right to be informed whether personal data being processed).

(6) In determining for the purposes of this section whether anything done before 24th October 2007 would contravene any of the data protection principles, the exemptions in Part III of Schedule 8 to the Data Protection Act 1998 shall be disregarded.

(7) In this section—

- “the data protection principles” means the principles set out in Part I of Schedule 1 to the Data Protection Act 1998, as read subject to Part II of that Schedule and section 27(1) of that Act;
- “data subject” has the same meaning as in section 1(1) of that Act;
- “personal data” has the same meaning as in section 1(1) of that Act.

Part II Section 43:

- (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).

Arden GEM CSU ask you as the provider to complete this form if you believe that any of the information submitted within your bid should be requested as Trade Secret or may prejudice the commercial interest of **[INSERT ORGANISATION NAME]**.

This document illustrates all questions asked within your submission for the provision of **Community Ophthalmology Service**. You are requested to illustrate those questions where you deem your response to be commercially sensitive and provide rationale to support this.

By signing this form you are confirming that the signatory has the appropriate level of authority to disclosure and confirm this information and by return of this form are

certifying that, to the best of your knowledge you have provided rationale to invoke
Section 40 / Section 43 of the FOI Act if appropriate.

Name, Job Title and Directorate of person completing this form:	
Date of request:	
Signed:	

Please tick **ONLY** those sections where you deem a/all responses to that section to be commercially sensitive.

Sections	Trade Secret (tick all that apply)	Commercially Sensitive (tick all that apply)	Time Period it will Remain Sensitive
Qualification Envelope			
Section A - Supplier information			
Section B - Bidding model			
Section C - Contact details			
SECTION D: Licensing and Registration			
SECTION E: Economic and Financial Standing			
SECTION F: Technical and Professional Ability			
SECTION G: Insurance			
Section H: Compliance with equality legislation			
Section I: Environmental Management			
Section J: Health and Safety			
Section K: Data Security / Information Governance			
Section L: Workforce			
Section M: Agreement to Principles of COSOP and TUPE			
Section N: Declarations			
Section O: Opportunity Listing			

Sections	Trade Secret (tick all that apply)	Commercially Sensitive (tick all that apply)	Time Period it will Remain Sensitive
Technical Envelope			
Section A – Service Delivery			

Section B – Workforce			
Section C – Service Mobilisation			
SECTION D: Premises			
SECTION E: Clinical Governance			
SECTION F: Data Security / Information Governance			
SECTION G: References			

Please note:

- We advise speaking with your FOI officer when looking to apply this exemption.

Reason for Exemption (please complete relevant element)

Where Section 43(1) or Section 40 (2(a(b)), (3(a)(I(II))) are being evoked, as applicable

For the sections illustrated above please provide information at question level as to why the response is deemed to constitute a Trade Secret?	
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Please note: Justifiable rationale is required for each request of exemption to support non-disclosure of information.

Reason for Exemption (please complete relevant element)

Section 43(2) and Section 40 (2(a(b)) (3(a)(I(II))) as applicable

Would the commercial interests of any person (i.e. individual, company and/or public authority itself) be prejudiced if the information identified above were to become public? – if yes, who would this affect and why (please ensure your response is answered at question level).	
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Reason for Exemption (please complete relevant element)

Section 43(3) and Section 40 (5) as applicable

If it would cause harm to confirm or deny the information is held by Arden GEM CSU, NHS England or other third parties, please provide further detail here as to why this would be at question level.	
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