

06/03/2025

NN-ICB/25-1090

Dear Requestor

**Re: Freedom of Information Request**

Thank you for your request for information, received on 14<sup>th</sup> February 2025, regarding procurement of Intermediate Minor Oral Surgery (IMOS). We have processed your request in accordance with the Freedom of Information Act 2000 (FOIA).

Under the FOIA, public authorities like ours are required to respond to requests for information within 20 working days. In response to your request, I can confirm that we do hold the information requested. However, please note that all of the information you requested has been withheld.

Please find below our response to your request:

In order to evaluate our position, I wish to make a Freedom of Information request for the following information;

1. The breakdown of the scoring for each question on my bid from each evaluator.
2. An explanation of how the weighting was undertaken for each question.
3. The evaluators' comments.
4. The evaluators' qualifications in relation to evaluating the answers.
5. The preferred bidder's answers which are sharable and not commercially-sensitive.
6. The evaluators' comments in relation to the preferred bidder's answers.
7. The number of bids for Lot 3 and their overall scores.

The ICB can confirm that we hold information of this description, however we are unable to share this information as we consider that it is exempt under section 43(2) (commercial interests) 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).

While the original procurement process has been abandoned, we and other ICBs are currently considering the next steps for the relevant services, and notification of any new procurement process will be advertised via the Find a Tender Services (FTS) portal in due course. The requested information relates to how individual bids were evaluated in the original procurement process, the contents of bids, the total number of bids and overall scores. Disclosure of this information at this time would undermine the competitiveness and fairness of any new procurement process for these services. This would in turn prejudice the ICBs' commercial interests in ensuring an effective procurement process to select the most suitable provider(s) for these public services. Likewise, disclosure would also be likely to prejudice the commercial interests of individual bidders in participating in a competitive, fair and effective procurement process.

A **public interest test** was undertaken on the 5 March 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.

We consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. We acknowledge the public interest in transparency regarding the original procurement process. However, this is outweighed by the strong public interest in ensuring there is no unwarranted prejudice to the new procurement process, for the reasons also outlined above.

Therefore, the ICB are entitled to withhold the information requested.

If you are unhappy with the way in which your request has been handled, NHS Nottingham and Nottinghamshire Integrated Care Board (ICB) has 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, Director of Corporate Affairs 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*

[nnicb-nn.foi@nhs.net](mailto:nnicb-nn.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 [nnicb-nn.foi@nhs.net](mailto:nnicb-nn.foi@nhs.net). All requests for re-use will be responded to within 20 working days of receipt.