

Freedom of Information Act 2000 - Request Reference FoI/23/152

Agency Staff

Information Requested:

1. **From 1st January 2023 to 28th February 2023, please list the wards/departments you have requested shifts for off framework agencies in your Adult Nursing, Mental Health, Community Hospitals?**

Emergency Unit.

2. **From 1st January 2023 to 28th February 2023 have you requested shifts for off framework agencies in your UTC/UCC/MIU?**

No – we do not have these areas within the UHB

3. **Please provide me with the name, contact number & email address of the person responsible for agreeing temporary nursing agency contracts for your Trust?**

After considering your request, the UHB believes that Section 40 of the Freedom of Information Act 2000 applies. Due to the low numbers of individuals involved (5 or less), the UHB believes that, when considered with other information already available within the public domain, disclosure would result in the risk of individuals becoming identifiable. The data requested is classed as personal data as defined under the General Data Protection Regulation (GDPR) and Data Protection Act 2018 and its disclosure would be contrary to the data protection principles and constitute unfair and unlawful processing in regard to Articles 5, 6, and 9 of GDPR. We are therefore withholding this detail under Section 40(2) of the Freedom of Information Act 2000. This exemption is absolute and therefore there is no requirement to apply the public interest test.

However, under Section 16, which provides us with the duty to advise and assist, the UHB can inform you that this is an All Wales process managed by the Commodity Manager for the NHS Wales Shared Services Partnership.

4. **Please provide a list of off-framework agencies used by the trust in the past 3 months**

Presto

5. **How much was your Off-Framework agency spend for each of the following staff groups between January 1st 2023 – March 10th 2023**

- (a) RGN's
- (b) RCN's
- (c) RMN
- (d) ITU Nurse
- (e) A&E Nurse
- (f) HCA
- (g) CPN

After considering your request, Cardiff and Vale University Health Board (the UHB) considers this information to be exempt from disclosure under the Freedom of Information Act 2000 (Section 43) Commercial Interests. This section of the Act sets out an exemption from the right to know if:

- the information requested is a trade secret, or
- release of the information is likely to prejudice the commercial interests of any person. (A person may be an individual, a company, the public authority itself or any other legal entity).

This exemption was considered by the UHB when deciding whether to disclose information because it considered that in doing so there could be a significant risk in prejudicing the commercial interests of both Cardiff University and the UHB. As this is a qualified exemption, the UHB is required to complete a public interest test in deciding whether it is in the public's interest to withhold or disclose the information.

In favour of disclosure: There is a public interest in transparency and in the accountability of spending of public funds. Furthermore, it is in the public's interest that public funds be used effectively and that public sector bodies obtain the best value for money when contracting for the provision of services.

Against disclosure: It has been established that releasing the information sought under the Freedom of Information Act, to which the UHB is subject, will give an unfair advantage to the supplier's competitors. There is a risk of disclosure prejudicing the commercial interests of the UHB by affecting its bargaining position with suppliers. This in turn could lead to less effective use of public funds in future. The UHB believes that there is wider established public interest in suppliers not being prejudiced merely because they have contracted with a public sector body (as upheld in ICO decision notice FS50473543 ICO v Royal Marsden Hospital Trust).

Decision: The UHB considers that the public interest in withholding the information is greater than the interests in disclosing it and thereby giving unfair commercial advantage to competitors of the supplier to which this information concerns. The UHB believes that disclosure of information in a manner which fails to protect the interests and relationships arising in a commercial context could have the effect of discouraging companies from dealing with the Health Board because of fears that the disclosure of information could damage them commercially. In turn this could then jeopardise the Health Board's ability to compete fairly and pursue its function to bring forward development in the area and obtain value for money. It was therefore decided that it was not in the public's interest to disclose this information.

6. How much was your off framework spent for (a) Urgent Treatment Centre (b) Urgent Care Centre (c) Minor Injuries Unit?

None – no areas of this nature within UHB