

**Freedom of Information Act 2000 – Request Reference FoI/24/006**  
**Smoking Fines and Parking Charge Notices**

**Information Requested:**

Under a Freedom of Information request I am requesting details of total number of individuals that have been fined for smoking on CAV properties including revenue raised in fines, along with total number of individuals who have have money extorted from them for parking at CAV sites, along with amount of revenue raised.

**Response Details:**

No fines have been raised for any individual smoking on Cardiff and Vale University Health Board premises.

Please note that Cardiff and Vale University Health Board (the UHB) has interpreted the second element of your request as seeking the number of parking charge notices (PCNs) issued on UHB premises. After considering your request for information on PCNs, the UHB considers this to be exempt from disclosure under section 43 of the Freedom of Information Act 2000 ('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 the supplier 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 Act, to which the UHB is subject, will give an unfair advantage to the supplier's competitors.

*Cardiff and Vale University Health Board v Information Commissioner (EA/2021/0030V)* determined there was a causal link between the potential disclosure of the information sought and prejudice to ParkingEye's commercial interests. The judge also accepted in this case that such a prejudice would be likely to occur on the balance of probabilities. If this information were to be disclosed, it is likely it would enable a competitor to gain insight into ParkingEye's business model to the latter's disadvantage. 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 the supplier's competitors. 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. It follows that 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 is not in the public's interest to disclose this information.