

**Freedom of Information Act 2000 – Request Reference FoI/24/047**  
**Gas and Electricity Contracts (Revised Response)**

**Information Requested:**

I am writing to submit a Freedom of Information (FOI) request regarding information related to the organisation's gas and electricity contracts, as well as details on the energy management system.

**\*\*Gas and Electricity Contracts: \*\***

1. Energy Provider
2. Annual Spend for each provider for the past 3 financial years.
3. Contract Duration (Including any extensions)
4. Contract start date
5. Contract Expiry Date
6. Contract Review Dates
7. Contact details of the person responsible, including job title
8. Total Consumption of Gas, please provide me with the latest figure in cubic metres.
9. Total Consumption of Electricity (NHH), please provide me with latest figure in kWh for the past 3 financial years.
10. Total Consumption of Electricity (HH), please provide me with latest figure in kWh for the past 3 financial years.
11. Contact details of the person responsible, including job title at the very least

Energy Management System Contract(s) - Contract(s) relating to the organisation's energy management system. An energy management system (EMS) is a system of computer-aided tools used by operators of electric utility grids to monitor, control, and optimise the performance of the generation or transmission system.

**Energy Management System Provider**

1. Annual Spend
2. Contract Duration (Including any extensions)
3. Contract Expiry Date
4. Contract start date
5. Contract Review Date
6. Contract Description – A description of the services provided.
7. Brand of the software
8. Total number of meter points for electricity:
  - a. Non-Half Hourly (NHH) meter points
  - b. Half Hourly (HH) meter points
9. Total number of Gas meter points
10. Total number of meter points for specialist gases and liquids
11. Contact details of the person responsible, including job title

## Response Details:

### Gas and Electricity Contracts

1. The electricity provider is EDF. The gas provider is Total Energies.
2. After considering your request, Cardiff and Vale University Health Board (the UHB) considers this information to be exempt from disclosure under section 43 of the Freedom of Information Act 2000 (FOIA 2000) ('Commercial interests'). This section of the FOIA 2000 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 FOIA 2000, 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 is not in the public's interest to disclose this information.

3. The contract duration for both EDF and Total Energies is 3.5 years.

4. The contract start date for electricity is 1 October 2023 and for gas is 1 April 2022.
5. The contract expiry date for electricity and gas is 31 March 2027.
6. The contracts are reviewed monthly.
7. After considering your request, the UHB believes that the data requested is classed as personal data as defined under the General Data Protection Regulation (GDPR) and Data Protection Act 2018. Its disclosure would be contrary to the data protection principles and constitute unfair and unlawful processing with regard to Articles 5, 6, and 9 of the GDPR. We are therefore withholding this detail under section 40(2) of the FOIA 2000. This exemption is absolute and therefore there is no requirement to apply the public interest test. However, the UHB can confirm that the job title is 'Category Manager – Energy'.
8. The UHB believes that the exemption outlined in section 43 of the FOIA 2000 applies and is therefore withholding information.
9. The UHB believes that the exemption outlined in section 43 of the FOIA 2000 applies and is therefore withholding information.
10. The UHB believes that the exemption outlined in section 43 of the FOIA 2000 applies and is therefore withholding information.
11. Please refer to the answer to question 7.

### Energy Management System Provider

In completing a search for the information requested, the UHB has confirmed that this information is not centrally recorded or collated. To retrieve the information requested would require a manual search through individual records and the UHB considers that this would exceed the limit set within the Appropriate Limit and Fees Regulations 2004. The UHB has therefore relied upon the section 12 exemption of the FOIA 2000 ('Exemption where cost of compliance exceeds appropriate limit') and is refusing your request for the following reasons.

It should first be noted that multiple requests within a single item of correspondence are considered separate requests for the purposes of section 12(4) of the FOIA 2000, as confirmed in *Fitzsimmons v Information Commissioner* [2008] UKIT EA/2007/0124.

When a public authority is estimating whether the appropriate limit is likely to be exceeded for the purposes of regulation 5 of the Fees Regulations as prescribed by section 12(4) of the FOIA 2000, it can include the costs of complying with two or more requests if these are:

- made by one person, or by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign; and
- received by the public authority within any period of 60 working days.

Since all of these requests were sent by the same individual and received on 22 January 2024, the UHB believes these conditions to be satisfied.

Regulation 5(2) of the Fees Regulations equally requires that aggregated requests relate 'to any extent' to the same or similar information. This test is likely to be met where requests possess an overarching theme or have a common thread running between them with respect to the nature of the information sought. And since each of the requests relates to energy consumption and management, the UHB considers the requirement of similar information sought to be met due to the common themes present.

The UHB has estimated that to complete the work needed to respond to the aggregated requests would exceed the time limit as set within the Fees Regulations to respond to a request made under the FOIA 2000. Under the Act there is an allowance of two and a half days, or 18 hours, to comply with a request and the cost limit set within the Fees Regulations for this amount of work is £450 for the UHB. The Fees Regulations specify that the cost of complying with a request must be calculated at the rate of £25 per hour.

In light of the above considerations, the UHB is refusing your requests for information in accordance with section 12(4) of the FOIA 2000.

Nevertheless, the UHB is able to provide the following information, in accordance with our duty under section 16 of the 2000 Act, for certain points.

The contract duration is 3 years, the contract expiry date is March 2025 and start date was March 2022, with an annual review. This contract is for Energy Monitoring and Targeting Bureau, comprising energy data collection, energy monitoring, forecasting, meter maintenance invoice validation. The brand of software used is ESight. Lastly, the job title of the for the person responsible is Head of Energy and Performance.