

Freedom of Information Act 2000 – Request Reference FoI/24/186
Confidential Waste Disposal Contract

I would be most grateful if you would provide me, under the Freedom of Information Act, details in respect to the contract below.

Confidential Waste Destruction Contract

The details I require are:

- **Has confidential waste been procured via tender or framework or another means?**

The contract was procured through a framework.

- **If a framework, could you confirm the name of the framework please?**

ESPO Framework 981_19 for Secure Shredding and Disposal Services (confidential materials).

- **Actual contract values of each framework/contract (& any sub lots)**

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 ('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 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 is not in the public's interest to disclose this information.

- **Start date & duration of contract**

18 August 2022 for a five-year contract period (inclusive of two years' extension).

- **Is there an extension clause in the framework(s)/contract(s) and, if so, the duration of the extension?**

A two-year extension option at yearly intervals.

- **Has a decision been made yet on whether the framework(s)/contract(s) are being either extended or renewed?**

No, because the initial three-year period is not due to end until 17 August 2025.

- **Who is the procurement officer responsible for this contract and could you provide their email address and phone number please?**

After considering your request, the UHB believes that section 21 of the Freedom of Information Act 2000 applies in this instance and is refusing your request.

Under section 21 of the Act, a public authority does not have to respond to a request if the information being sought is reasonably accessible to the applicant by other means. The UHB has applied this exemption to your request as the information you are seeking is available in the public domain.

Under our section 16 obligation to advise and assist, I can confirm that the relevant information can be found at the following weblink: [NHS Wales Shared Services Partnership \(NWSSP\)](#).

- **Do you have a generic email address for your procurement department, for example procurement@organisation.com, if so could you confirm this?**

After considering your request, the UHB believes that section 21 of the Freedom of Information Act 2000 applies in this instance and is refusing your request.

However, in accordance with our duty under section 16 of the Act, the UHB can provide the following: [NWSSP Procurement Services](#).

- **Who is the senior officer (outside of procurement) responsible for this contract and could you provide their email address and phone number please?**

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 Freedom of Information Act 2000. This exemption is absolute and therefore there is no requirement to apply the public interest test.

- **Who is the current supplier?**

Restore Datashred.

- **If your current supplier is a Facilities Management/Waste/Cleaning Company, which sub-contractor services your organisation? E.g., which company's staff actually collect your confidential waste?**

Waste is collected by Restore Datashred staff.