

Freedom of Information Act 2000 – Request Reference FoI/24/286

Ophthalmology

Information Requested:

[W]e are seeking comprehensive information regarding the ophthalmic product landscape within NHS hospitals. Specifically, we kindly request the following information under the Freedom of Information Act 2000 (excel table attached for ease of completion):

Product Information:

Detailed specifications of the intraocular lenses (IOLs), phacoemulsification systems, and procedure packs currently used within your hospital.

Any relevant documentation or brochures outlining the features, benefits, and specifications of these products.

Volume:

The volume of IOLs, phacoemulsification systems, and procedure packs procured by your hospital within the past year.

Any trends or projections related to the usage of these products.

Pricing:

The pricing structure for the products, including any discounts, rebates, or negotiated pricing arrangements.

Details of any contracts or agreements with suppliers, including contract durations and renewal terms.
Contract Details:

Any additional information including terms and conditions, performance metrics, and service level agreements.

Other Relevant Information:

Any additional information or insights related to the procurement, utilisation, and management of ophthalmic products and services within your hospital.

Any challenges or areas for improvement identified in the current procurement process.

Response Details:

Please see the attached Excel document.

Please also note that the Freedom of Information Act 2000 grants individuals the right to access information held by a public authority at the time of request, subject to any applicable exemptions. Cardiff and Vale University Health Board (the UHB) is not required to generate new information which does not already exist at the time of request in order to comply.

After considering your request for pricing details, 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.