

Freedom of Information Act 2000 - Request Reference FoI/21/096

Ophthalmic Equipment

Request Details

I am writing to make an open government request for information relating to the use of Ophthalmic Equipment and believe I am entitled to do this under the Freedom of Information Act 2000. The questions I wish to raise are:

- 1. When are your current Vitreoretinal (VR) and Phaco equipment and associated consumables contracts due to expire?**

Cardiff and Vale University Health Board (the UHB) are currently utilising an All Wales Framework Agreement to purchase consumables linked to the procedures, this agreement expires on the 31st May 2023.

- 2. How many a) cataract procedures and b) vitreoretinal procedures carried out in 2019? Which hospital sites performed these cases?**

2,397

- 3. Will you plan to use capital or revenue budget to fund the next contract for Phaco and VR equipment, ie capital purchase or consumables based agreement?**

An assessment would be made based on current and future environment and available budgets.

- 4. How many procedures per year (Phaco and VR) will be included within the next contract award, and for how many years?**

As above.

- 5. Do you plan to trial potential new suppliers in the next twelve months? If so when do you expect evaluations to take place?**

Trials would only take place if there was a clinical desire to change current practice.

- 6. Who is the procurement manager responsible for this contract?**

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 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.

7. Who is the clinical lead for ophthalmology?

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8. What is the total spend on your Phaco machine procedure packs in 2019?

After considering your request, 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 the company in question. 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: There is a risk of disclosure prejudicing the commercial interests of the UHB by affecting its bargaining position with agencies. This in turn could lead to less effective use of public funds in future. It has been established above that releasing the information under the Freedom of Information Act, to which the UHB is subject, will give an unfair advantage to the supplier's competitors. The UHB believes that there is wider established public interest in companies 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.

9. What is the total spend on your VR machine procedure packs in 2019?

After considering your request, 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).

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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.

10. Are there any other products included within the scope of the current Phaco and VR equipment contracts and if so, which?

The products are all called off an All Wales agreement therefore products that supplement the procedures are being purchased but not as a contract agreement direct with the UHB.