

Please contact: Access to Information Team

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13 April 2023

Dear

**Re: Your request for information under the Freedom of Information Act 2000**  
**Ref no: FOI-2857-LSC**

Thank you for your request dated 26 January 2023.

We can confirm that the ICB does hold the information you requested.

Please find our response to your questions below:

The response that I received was not very helpful, as all the information within was available already in the public domain, so I shall ask the question again in a different way

1. What due diligence was undertaken by LSCICB in assessing the suitability and track record of the applicants to provide General Medical Services? The contract for 10 years with an optional 5 year extension option involves considerable sums of public money. Is there no 'Fit and Proper' test applied to the applicants, before the anonymised data is passed on to a neighbouring ICB for scoring?

**The due diligence undertaken is listed within the attached Invitation to Tender document.**

2. Can I have sight of all the anonymised bids that were submitted?

**NHS Lancashire and South Cumbria ICB are not obliged to provide information relating to anonymised bids. In this case, we believe that the information would, or would be likely to, prejudice the commercial interests of the ICB (section 43(2) of the Act).**

**In line with the terms of these exemption in the Freedom of Information Act, we have also considered whether it would be in the public interest for us to provide you with the information, despite the exemptions being applicable. In this case, we have concluded that the public interest favours withholding the information.**

**You can find out more about Section 43 by reading the extract from the Act and some guidance points we consider when applying this exemption along with more information by reading the full text of the Act, available at: <http://www.legislation.gov.uk/ukpga/2000/36/section/43>.**

**When assessing whether or not it was in the public interest to disclose the information to you, we took into account the following factors:**

**Public interest considerations favouring disclosure –**

**The FOIA requires that public sector organisations are open and transparent in relation to**

**their business making decisions.**

**Public have an interest in knowing how public funds are spent and know that funds are being used appropriately.**

**Procurement processes – due diligence**

**Public interest considerations favouring withholding the information –**

**The release of the data should be viewed as commercially sensitive, and disclosure would prejudice the bidder's commercial interests.**

**No contract was awarded initially which has resulted in a further procurement exercise being carried out; therefore, details of the bidders cannot be release.**

**Having considered the arguments for and against disclosure, NHS Lancashire and South Cumbria ICB have decided that the public interest in this case is best served by maintaining the exemption and by not disclosing the information requested. NHS Lancashire and South Cumbria ICB consider that the possible benefits of disclosure are outweighed by the real risk of causing prejudice to the commercial interests of the ICB itself.**

**We reached the view that, on balance, the public interest is better served by withholding this information under Section 43(2)**

3. Can I have sight of the scores rated to each criterion, for each bid submitted? That will be useful in preparation of a Judicial Review application on behalf of Withnell Health Centre to challenge the procurement and tender process and outcome

**Please refer to the comments within question 2, as a section 43 exemption has also been applied in this case.**

**Right of Appeal**

Should you require any further information or clarification regarding this response please do not hesitate to contact us. If you are dissatisfied with the response, you are entitled to request an internal review which should be formally requested in writing and must be within two calendar months from the date this response was issued.

**To request an internal review**

You can request this by contacting the FOI team by email at [MLCSU.FOITeam@nhs.net](mailto:MLCSU.FOITeam@nhs.net) or by post to Jubilee House, Lancashire Business Park, Leyland, PR26 6TR, specifying why you require a review.

If you are not content with the outcome of your internal review, you may apply directly to the Information Commissioner's Office (ICO) for a decision. Generally, the ICO cannot make a decision unless you have exhausted the CCGs FOI complaints procedure. The ICO can be contacted at:

Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF  
[www.ico.gov.uk](http://www.ico.gov.uk)

Yours sincerely

**On behalf of Kevin Lavery  
ICB Chief Executive**